

**CITY OF SEATTLE
CABLE TELEVISION FRANCHISE AGREEMENT**

BY AND BETWEEN

THE MAYOR AND CITY COUNCIL OF SEATTLE

AND

COMCAST OF WASHINGTON I, INC. AND COMCAST OF WASHINGTON IV, INC.

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ATTACHMENT A - CORPORATE GUARANTY

SECTION 1. NATURE AND TERM OF GRANT

1.1 Grant of Franchise.

(A) The City of Seattle hereby grants to Comcast of Washington IV, Inc., a Washington Corporation, and Comcast of Washington I, Inc., a Washington Corporation, having their principal place of business in Bothell, Snohomish County, Washington, a Franchise to install, construct, operate and maintain a Cable System to provide Cable Services under such terms and conditions as are set forth in this Franchise.

(B) Throughout this Franchise, the City of Seattle, Washington shall be referred to as the "City," and Comcast of Washington IV, Inc. and Comcast of Washington I, Inc. shall be referred to jointly as the "Grantee."

(C) Comcast of Washington IV, Inc. and Comcast of Washington I, Inc. shall be jointly and severally liable for the obligations of the Grantee under the Franchise and other applicable law governing Grantee's operations in the City and for compliance with the terms and conditions set forth herein, and a default by one shall be deemed a default by both. Notice to either shall be deemed notice to both. Termination or revocation of this Franchise as to one shall terminate or revoke this Franchise as to both. The failure to enforce against one shall not operate as a waiver or limitation of claims against the other.

1.2 Duration of Franchise.

The term of this Franchise, and all rights, privileges, obligations, and restrictions pertaining thereto, shall be ten (10) years from the Effective Date of this Franchise, unless terminated earlier as provided herein.

1.3 Effective Date.

The Effective Date of this Franchise shall be January 20, 2006, subject to applicable law and subject to Grantee's written acceptance of its terms not later than thirty days following the effective date of the legislation approving this Franchise.

1.4 Competitive Equity.

(A) This Franchise is not exclusive. The Grantee acknowledges and agrees that the City reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to provide Cable Services within the City; provided, however, that no such franchise or similar lawful authorization shall contain material terms or conditions which are substantially more favorable or less burdensome to the competitive entity than the material terms and conditions herein. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are generally equivalent taking into account any difference in the number of subscribers served, the number of PEG channels and aggregate support provided, the level of fees and taxes imposed, the term of the franchise, and all other circumstances affecting the relative burdens. If

Grantee believes the City has granted a franchise in violation of this Subsection 1.4(A), Grantee shall have the right to reopen this Franchise pursuant to Section 20.

(B) Notwithstanding any provision to the contrary, at any time prior to the commencement of the Grantee's thirty-six (36) month renewal window provided by Section 626 of the Cable Act, that a non-wireless facilities based entity, legally authorized by state or federal law, makes available for purchase by Subscribers or customers, Cable Services or multiple channels of Video Programming within the Franchise Area without a franchise or other similar lawful authorization granted by the City, then the term of Grantee's Franchise shall, upon ninety (90) days written notice from Grantee, be shortened so that the Franchise shall be deemed to expire on a date thirty six (36) months from the first day of the month following the date on which the competitor passes fifteen percent (15%) of the homes in the Franchise Area and begins providing Cable Services. Grantee shall immediately thereafter secure franchise renewal rights pursuant to Section 626 of the Cable Act with no further notice to the City required. The City and Grantee shall then enter into proceedings consistent with Section 626 for renewal of this Franchise. The City and Grantee shall have all rights and obligations provided under said Section 626. In no event, however, shall the term of this Franchise be reduced to less than seven (7) years from the Effective Date of this Franchise.

(C) Notwithstanding any provision to the contrary, should any non-wireless facilities based entity provide Cable Service within the Franchise Area during the term of this Franchise without a franchise granted by the City, then Grantee shall have all rights which may be available to assert, at Grantee's option, that this Franchise is rendered "commercially impracticable," and invoke the modification procedures set forth in Section 625 of the Cable Act.

1.5 Relationship to Other Laws.

(A) Grantee's Franchise is subject to all lawful terms, conditions, and provisions of this Franchise, of Seattle Municipal Code Chapter 21.60 ("SMC 21.60," or "Cable Communications Ordinance") as the same is now or hereafter amended by lawful exercise of the City's police powers, of the Communications Act of 1934, as amended by the Cable Consumer Protection Act of 1984, the Cable Communications Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, as the same is now or hereafter amended.

(B) Grantee's rights hereunder are subject to the lawful exercise of the City's police power. Nothing in this Franchise shall preclude or prohibit the City from enacting any ordinance in the interest of public health, safety and welfare, which may impact the Grantee in its operation of the Cable System, as a proper exercise of the City's police power. Grantee acknowledges that the City may modify its regulatory policies by lawful exercise of the City's police powers throughout the term of this Franchise. Grantee agrees to comply with such lawful modifications unless there is a conflict with Grantee's negotiated rights hereunder. Grantee reserves all rights it may have to challenge such

lawful modifications whether arising in contract or at law. The City reserves all of its rights and defenses to such challenges whether arising in contract or at law.

(C) It is the intent of both parties that each party shall enjoy all rights and be subject to all obligations of this Franchise for the entire term of the Franchise and, to the extent any provisions have continuing effect, after its expiration. However, both parties recognize that the technology of cable television and related technologies are in a state of flux and that regulatory conditions and franchise rights and powers may change drastically during the term of this Franchise. Should such changes occur, the provisions and procedures of Subsection 20.1 (Reopeners) shall govern, and the City and Grantee shall negotiate in good faith to amend the Franchise to preserve the rights and obligations of the City and Grantee hereunder to the fullest extent consistent with such changes. The parties agree that the perpetuation of the substantial equivalent of the current statutory and regulatory structure governing cable television is not a condition of this Franchise, or a fundamental assumption that either party is making in entering into it; provided, however, nothing herein shall prevent either the City or the Grantee from asserting that any part or parts of the Franchise are preempted by state or federal law as a result of such changes.

SECTION 2. CITY'S PRINCIPLES AND INTENT

The following provisions are statements of the City's intent in entering into this Franchise, but do not necessarily reflect Grantee's intent, and shall not supplant or modify specific provisions of the Franchise:

- (A) Ensure that Seattle stays at the forefront of technology by keeping the Cable System up to date with features meeting the current and future cable-related needs and interests of the community;
- (B) Encourage the widest feasible scope and diversity of Programming and other services to all City residents consistent with community needs and interests;
- (C) Encourage telecommunications services of all kinds to be offered to City residents on a non-discriminatory basis;
- (D) Ensure that Seattle citizens have the opportunity and facilities for training in video production and the opportunity to produce and air Video Programming over the Cable System;
- (E) Ensure that Seattle citizens have the opportunity to view public, educational, and governmental Programming;
- (F) Ensure that rates and charges for cable Programming, equipment, and services provided over the Cable System are affordable and consistent with federal standards;
- (G) Ensure that Seattle citizens receive high quality customer service;

(H) Ensure that the City receives appropriate compensation for the use of its facilities and property and that installation and maintenance of cable Facilities comply with all applicable City regulations, and do not interfere with the City's legitimate use of its own facilities and property;

(I) Encourage competition among cable operators and between Cable Operators and other providers of communications services;

(J) Protect the City's interests and the health, safety, and welfare of its citizenry;

(K) Support the use of union labor and a diverse work force that reflects Seattle's population;

(L) Ensure the universal availability of Cable Services within Franchise Areas on a non-discriminatory basis; and

(M) Provide for timely mandatory government access to all Cable Systems in times of civil emergency.

SECTION 3. DEFINITIONS

For the purpose of this Franchise, and all attachments hereto, the following terms, phrases, and their derivations shall have the meanings given below unless the context clearly mandates a different interpretation. Where the context so indicates, the present tense shall imply the future tense, words in plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory. The definitions are applicable regardless of whether the term is capitalized.

3.1 "Access" means the right of certain agencies, institutions, organizations, groups and individuals in the community, including the City and its designees, on a non-discriminatory basis, to use the Cable System for specific non-commercial purposes, including the right to acquire Programming, to create Programming free from outside control including that of the Grantee, and to distribute and receive Programming over the Cable System.

3.2 "Access Channel" means any Channel, or portion thereof, designated for Access and made available by the Grantee at no charge.

3.3 "Affiliated Entity" means any enterprise that owns or controls the Grantee, or is owned or controlled by the Grantee, or otherwise has ownership or control in common with the Grantee, including, without limitation, Grantee's Parent Corporations and any subsidiaries or affiliates of such Parent Corporations who meet this definition.

3.4 "Basic Service" or "Basic Service Tier" means the lowest priced tier of Cable Service offered by Grantee and includes, at a minimum, all signals of domestic television broadcast stations provided to any Subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the

Cable System), any public, educational, and governmental Programming required by the Franchise to be carried on the Basic Service Tier, and any additional Video Programming signals or service added to the Basic Service Tier by the Grantee.

3.5 "Cable Operator" means any person or group of persons (A) who provides Cable Services over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System, or (B) who otherwise controls or, through any arrangement, is responsible for the management and operation of such a Cable System.

3.6 "Cable Services" means the one-way transmission to Subscribers of Video Programming, or other Programming service and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other Programming service.

3.7 "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include:

- (A) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;

- (B) a facility that serves Subscribers without using any public Right of Way;

- (C) a facility of common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

- (D) an open video system that complies with 47 U.S.C. § 573; or

- (E) any facilities of any electric utility used solely for operating its electric utility systems.

3.8 "Channel" means a band of frequencies in the electromagnetic spectrum utilizing various means of transmission (including, without limitation, analog and digital or any other means now available or that may become available), which band of frequencies is capable of carrying one (1) or more video signals, audio signals, voice signals or data signals.

3.9 "City" means The City of Seattle, a municipal corporation of the State of Washington.

3.10 "City Council" means the legislative body of the City of Seattle.

3.11 "Closed Channels" are upstream or downstream Channels that are not available for receipt by Subscribers without special equipment or authorization.

3.12 "Demarcation Point" means the physical point at which the Cable System enters a Subscriber's home or building.

3.13 "Designated Access Managers" means the entity or entities designated by the City under Subsection 6.1.

3.14 "Document" or "Records" means written or graphic materials, however produced or reproduced, or any other tangible permanent record, including records maintained by computer or other electronic or digital means, maintained by the Grantee in the ordinary course of conducting its business.

3.15 "Downgrade Charges" means charges Grantee may impose for implementing a request for a change or reduction of Cable Services to less than current services or tiers.

3.16 "Downstream Channel" means a Channel capable of carrying a transmission from a Headend to other points on a Cable System, including Interconnection points.

3.17 "Dwelling Unit" means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, designed for residential occupancy and includes "household" as that term is used in the Federal Cable Act, 47 U.S.C. § 521, et seq. Fraternity, sorority houses, and buildings with more than one set of facilities for cooking, unless the additional facilities are clearly accessory, are multiple Dwelling Unit buildings.

3.18 "Educational Access" means Access for schools and other educational institutions and entities.

3.19 "Effective Date" (*see* Subsection 1.3).

3.20 "Facility" means any distribution component of a Cable System.

3.21 "FCC" means the Federal Communications Commission.

3.22 "Fiber Optic" refers to a transmission medium of optical fiber cable and the electronics, software and equipment that support delivery of Cable Services by means of the optical fiber cable.

3.23 "Franchise" means this Franchise Agreement.

3.24 "Franchise Area" means the area within the City as specified in Section 4.1 hereof within which the Grantee is authorized to provide Cable Services under this Franchise, and any modification thereof.

3.25 "Franchise Fee" means consideration paid by Grantee for the privilege to construct and/or operate a Cable Communications System in the Franchise Area as set forth in Section 11, in accordance with Section 622 of the Cable Act.

3.26 "Government Access" means Access for governmental entities or their designees.

3.27 "Grantee" means 1) Comcast of Washington IV, Inc., its lawful successors, transferees and assignees; and 2) Comcast of Washington I, Inc., its lawful successors, transferees and assignees. Comcast of Washington IV, Inc. and Comcast of Washington I, Inc. shall be jointly and severally responsible for the terms and conditions of this Franchise.

3.28 "Gross Revenues" means, for purposes of Franchise Fee calculations, all revenue received by the Grantee, in whatever form and from all sources, derived from the operation of Grantee's Cable System to provide Cable Services, including any revenue received by the Grantee from any use of any component of the Cable System for any purpose by the Operator or by others. Gross Revenues shall include, without limitation, revenue received from: 1) Cables Services; 2) converter and equipment rentals; 3) advertising; 4) installations; 5) sales occurring as a result of home shopping or similar programming; 6) leased channels; 7) sales of programming guides; 8) Franchise Fees; and 9) fees, payments or other consideration paid by programmers and commissions on advertising accounted for in accordance with generally accepted accounting principles (GAAP). Gross Revenues shall not include revenues received from telecommunications services or revenues received by third parties unless such revenues are of a type normally received by the Grantee prior to the date of this Franchise or would normally be received by a Cable Operator similarly situated in the ordinary course of business as compensation for use of the Cable System.

Gross Revenues shall be determined without deduction for (1) any operating expense; (2) any accrual; or (3) any other expenditure, regardless of whether such expense, accrual or expenditure reflects a cash payment, and revenue shall be counted only once in determining Gross Revenues. Gross Revenues shall not include funds that the Grantee is legally obligated to collect as sales or similar taxes imposed directly on Subscribers.

This definition shall be construed so as to include all Gross Revenues to the maximum extent permitted by federal and state law, except to the extent specifically excluded in this section, and encompasses revenues that may develop in the future, whether or not anticipated. If a statutory change in state or federal law or a decision of the FCC or a court of competent jurisdiction expands the categories of revenue available to the City for the Franchise Fee assessment beyond those permitted under this definition as of the Effective Date, that change shall automatically be included in the definition of Gross Revenues under this Franchise, provided that the City imposes the same requirement upon any other similarly situated multichannel video provider over which the City has jurisdiction and authority to impose such fees.

3.29 "Guarantor" means any entity that expressly issues a guaranty of Grantee's performance of any obligation under the Franchise.

3.30 "Headend" means a facility for signal reception and/or dissemination on the Cable System, including all related equipment, such as cable, antennas and wires, satellite dishes, monitors, switchers, modulators, computers, software, processors for television broadcast signals,

equipment for the Interconnection of Grantee's Cable System with adjacent cable systems and for Interconnection of any separate networks which are part of Grantee's Cable System.

3.31 "Initial" or "Initially" means as of the Effective Date of this Franchise.

3.32 "Interconnect," "Interconnected," or "Interconnection" means the provision of an electronic linkage between Grantee's Cable System and Cable Services or any part, designated Channel or signal pathway thereof and any other designated Cable System and Cable Services or any part, designated Channel or signal pathway thereof, with the result that Cable Services of high technical quality may be transmitted between such Cable Systems or Programmers.

3.33 "Leased Access Channel" means a Channel or portion of a Channel made available by Grantee for Programming by others for a fee.

3.34 "Liquidated Damages" means any requirement imposed on the Grantee to pay specified sums to the City as a result of performance deficiencies and/or Franchise violations identified herein.

3.35 "Non-Cable Services" means any service that is distributed over the Cable System, other than a Cable Service.

3.36 "Non-Standard Installation" (*see* Subsection 8.11(C)).

3.37 "Normal Business Hours" means the hours from 8:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m., Saturday, excluding legal holidays.

3.38 "Normal Operating Conditions" means service conditions within the control of the Grantee. Those conditions that are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions that are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

3.39 "Parent Corporation" means any existing or future corporation, entity, or person with greater than fifty percent (50%) ownership or control over Grantee.

3.40 "PEG Access" means Public Access, Educational Access, and Government Access, jointly or severally.

3.41 "Person" means any sole proprietorship, partnership, association, corporation or other form of organization authorized to do business in the State of Washington, and any natural person.

3.42 "Programmer" means any Person who prepares, produces or provides Programming that is intended for transmission on a Cable System.

3.43 "Programming" means the video, audio, voice, data, multimedia or other material or programs prepared for or capable of transmission on a Cable System, or, as the context requires, the process of causing such material to be created, received, transmitted or distributed on a Cable System.

3.44 "Public Access" means Access for the public, including organizations, groups and individuals.

3.45 "Puget Sound Region" or "Region" or "Regional" means the geographic area of King, Pierce, and Snohomish counties.

3.46 "Rebuild" means to upgrade the Cable System in accordance with Section 8.

3.47 "Records" or "Documents" (*see* Subsection 3.14).

3.48 "Right of Way" means the surface of and the space alongside, above and below any street, road, highway, freeway, lane, sidewalk, alley, court, boulevard, parkway, drive, utility easement and road right-of-way now or hereafter held or administered by the City.

3.49 "School" means any public educational institution accredited by the State of Washington, including primary and secondary schools (K-12), and colleges and universities (excluding the dormitories, fraternity and sorority houses of such institutions).

3.50 "Service Interruption" means any loss of any element of programming on any part of the Cable System.

3.51 "Standard Installation" (*see* Subsections 8.11(A) and (B)).

3.52 "Subscriber" means any Person who is lawfully receiving, for any purpose or reason, any Cable Service whether or not a fee is paid, including each such person in a multiple Dwelling Unit building, except for purposes of reporting or cost allocation, where equivalent subscriber basis may be used.

3.53 "Tier" means Programming Services offered by Grantee to Subscribers as a package.

3.54 "Upgrade" means an improvement in any technical aspect of a Cable System.

3.55 "Upstream Channel" means a Channel capable of carrying a transmission to a Headend from any other point on a Cable System including Interconnection points.

3.56 "Video Programming" means Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

SECTION 4. FRANCHISE AREA

4.1 Franchise Area.

Grantee shall provide Cable Services, as authorized under this Franchise, within the following City cable franchise districts:

(A) Cable Franchise District I

(B) Cable Franchise District II

(C) Cable Franchise District III

(D) Central Business Franchise District (CBFD)

The CBFD shall be subdivided into two areas as stated below:

(1) Area North: All areas of the CBFD located North of Royal Brougham Way;
and

(2) Area South: All remaining areas of the CBFD.

(E) Central Cable Television Franchise District 1A

Grantee is authorized to provide Cable Services to a designated portion of the Central Cable Television Franchise District ("CAFD"). For the purpose of this Franchise, this designated Franchise Area shall be known as Central Cable Television Franchise District 1A ("CAFD 1A"). CAFD 1A shall consist of two (2) sub-areas:

(1) The first sub area (the "Guaranteed Service Area") shall consist of all areas where Grantee has its Cable System built as of the Effective Date of this Franchise, plus one hundred twenty five (125) feet; and

(2) The second sub-area (the "Adjacent Area") shall consist of the area that is not in the Guaranteed Service Area and is up to one thousand (1,000) feet from Grantee's existing Cable System.

A Franchise district map shall be on file with the City Clerk's Office and with the Office of Cable Communications in sufficient detail and size to determine exact boundaries and shall be readily accessible to Grantee.

4.2 Expansion of Franchise Area

(A) Grantee may provide Cable Services outside its Franchise Area only after receiving specific City approval.

(B) The City shall approve all expansion areas of the Franchise and, subject to the requirements of Subsection 1.4, may identify conditions of service or a franchise unique to that expansion area.

SECTION 5. PROGRAMMING

5.1 Grantee Compliance.

Grantee shall meet or exceed the Programming and Channel capacity requirements set forth in this Franchise.

5.2 Maintenance of Existing Conditions.

(A) Without the written consent of the City and except as otherwise specifically provided in this Franchise, Grantee shall not delete, or so limit as to effectively delete, any broad category of Programming identified in Subsection 5.3 carried on Grantee's Cable System as of the Effective Date of this Franchise.

(B) In the event of a modification proceeding under federal law, the mix and quality of services provided by the Grantee on the Effective Date of this Franchise shall be deemed the mix and quality of services required under this Franchise throughout its term.

5.3 Expanded Programming and Channel Capacity.

Grantee shall provide:

(A) A minimum number of Downstream Channels equal to no fewer Channels than are available to all Subscribers as of the Effective Date of this Franchise.

(B) Closed Channels in sufficient number and technical quality to permit the implementation of the Closed Channel requirements of the Franchise.

(C) In addition to Programming provided on PEG Channels and local off-air broadcast channels, if any, Grantee shall provide the following broad categories of Programming:

- (1) Education
- (2) News & information
- (3) Sports
- (4) Cultural and performing arts
- (5) Government affairs
- (6) Weather
- (7) Foreign language Programming
- (8) Programming addressed to the City's diverse ethnic and minority interests

- (9) Audio Programming (including a selection of local FM radio stations)
- (10) Business news
- (11) General entertainment (including, but not limited to, movies)
- (12) Children's Programming
- (13) Family Programming
- (14) Science/documentary
- (15) Canadian Programming

The requirements for each category of Programming may be satisfied by providing a separate Channel devoted substantially to the category or by Programming from more than one Channel which in the aggregate totals the equivalent of a Channel devoted substantially to the category.

5.4 Ascertainment Process.

(A) At least once every three years from the Effective Date of this Franchise, Grantee shall conduct, at its sole cost, an ascertainment of the community's views regarding the nature and adequacy of Grantee's Cable Services, and of the cable related needs and interests of the community and the preferences of Subscribers within the Grantee's Franchise Area, conducted by an independent non-affiliated entity using generally accepted market research techniques. The ascertainment shall consist of a telephone survey of a statistically valid sample of Grantee's cable customers in the City. The survey questionnaire shall be jointly developed by the Grantee, the City and an independent research entity selected by Grantee. A written summary of the findings, prepared by the independent entity and including a description of the methodology used, and a description of any actions Grantee intends to take, shall be provided to the City.

Grantee agrees that the costs and expenses associated with conducting the ascertainment and Grantee's payment thereof are not within the meaning of the term "Franchise Fee" as defined by Section 622(g)(1) of the Cable Act (47 U.S.C. § 542(g)(1)) or any successor provision, and are within one (1) or more exclusions to the term "Franchise Fee" provided by Section 622(g)(2)(A)-(D) of the Cable Act (47 U.S.C. § 622(g)(2)(A)-(D)) or any successor provision. Grantee further agrees that such costs and expenses shall not be deemed to be: (i) "payments in kind" or involuntary payments chargeable against the compensation to be paid to the City or chargeable against the payments to any PEG entity by Grantee pursuant to Section 6 hereof, or (ii) part of the compensation to be paid to the City or the payments to any PEG entity by Grantee pursuant to Section 6 hereof.

(B) Following the ascertainment process, Grantee shall make a good faith determination of whether adjustments to its broad Programming categories or other Cable Services are reasonably necessary to accommodate the cable related community needs and interests in

light of the cost of meeting those needs and interests, and, in the event such changes are determined in good faith by the Grantee to be necessary, shall implement them within a reasonable time. This provision shall not limit the City's rights pursuant to Subsection 19.1.

5.5 Deletion or Reduction of Programming Categories.

Grantee shall not delete or so limit as to effectively delete any broad category of Programming within its control for any group of Subscribers without the City's consent, which shall not be unreasonably withheld, and shall provide at least thirty (30) days prior written notice to the City of Grantee's request to do so, including all proposed changes in bandwidth or Channel allocation, and any assignments including any new equipment requirements that may occur as a result of these changes.

5.6 Obscenity.

Grantee shall not transmit, or permit to be transmitted, over any Channel any Programming which is obscene in the sense that such Programming is not protected speech under the Constitution of the United States. The Grantee shall adopt a written policy prohibiting obscene Programming. The City acknowledges that Grantee has no editorial control over Programming carried on PEG Channels.

5.7 Parental Control Device.

Upon request by any Subscriber, Grantee shall make available at Grantee's actual cost a parental control or lockout device compatible with the Subscriber's equipment that will enable the Subscriber to block access to any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of the original subscription and annually thereafter, and if requested by the Subscriber, shall provide the device at the time of the original installation.

5.8 Leased Access Channels.

Leased access channels shall be provided in accordance with federal law.

SECTION 6. PUBLIC, EDUCATIONAL AND GOVERNMENT ACCESS

6.1 Designated Access Managers.

(A) The City shall name Designated Access Managers for Public, Education, and Governmental Access Programming. The Designated Access Managers of Educational and Governmental Access shall have sole responsibility for operating and managing their respective Access Facilities.

(B) Grantee shall cooperate with Designated Access Managers and providers and facilitate their use of Grantee's Cable System and Programming of PEG Access Channels. Grantee shall enter into such operating agreements with Designated Access Managers as are appropriate to meet PEG Access requirements of this Franchise.

6.2 PEG Channel Capacity.

Grantee shall make available for the City's use Public, Educational, and Government ("PEG")

Access Channels as specified in this section.

(A) Grantee shall make available, at its sole cost, a total of eight (8) PEG analog Channels of 6 megahertz bandwidth each to be allocated at the City's discretion.

(B) Additional PEG Channel Capacity. In addition to the channels described in Subsection 6.2(A), Grantee shall make available, at its sole cost, up to eight (8) digital Public, Educational and Government Access Channels. Allocation of all additional digital PEG Channels shall be at the sole discretion of the City. Individual digital Channels shall be made available upon six (6) months prior written notice from the City and shall be allocated bandwidth comparable to commercial digital Video Programming Channels provided to Subscribers.

(C) During the term of this Franchise, Grantee shall make available no fewer than a total of sixteen (16) PEG channels in accordance with Subsections 6.2A and 6.2B.

(D) Recognizing that there may be a transition period during the term of this Franchise when all Programming is converted to a digital format, Grantee shall ensure that, subject to applicable law, all Subscribers are able to view PEG Programming at all times during such transition.

(E) Additional Channels provided pursuant to this section shall not in any way relieve Grantee of its programming category requirements within any of the categories set forth in Section 5.

(F) Unused PEG Channels. The City may from time to time adopt and revise rules and procedures as to when and how Grantee shall use the PEG Channels if the PEG Channels are not being used for their respective purposes. Grantee shall use the PEG Channels solely in accordance with such rules and procedures and but for Grantee's use, Grantee shall have no responsibility, liability, or control with respect to the operation of such Channels.

6.3 Access Channel Assignments.

Channel assignments for PEG Access Channels shall be determined in accordance with the criteria listed below.

(A) Access Channels on Basic Service Tier. Except as otherwise agreed by the City, all Access Channels shall remain on the Basic Service Tier offered by Grantee on its Cable System.

(B) The City acknowledges that Grantee may determine channel placement at its sole discretion; however, Grantee shall work with the City, other Cable Operators, and Designated Access Managers to establish and coordinate City-wide Access Channel assignments and Interconnected PEG Access Channels. If the City and Grantee are unable to agree, the matter shall be submitted to arbitration under Subsection 21.2.

(C) Nothing in this section shall limit Grantee, Designated Access Managers, or other

cable franchisees from agreeing upon other Channel assignments.

(D) Grantee shall cooperate with the City, Designated Access Managers, and other cable franchisees to establish common, logically related additional Channel assignments in accordance with this section.

6.4 PEG Funding.

(A) Grantee shall provide the City a PEG capital contribution in the amount of two million dollars (\$2,000,000) within thirty (30) days of the effective date of the legislation approving this Franchise. To the extent allowed by law, the capital contribution may be treated as an external cost by Grantee, itemized on Subscriber billing statements and recovered from Subscribers over the term of this Franchise.

(B) Grantee shall provide the City a PEG capital contribution in the amount of seven hundred fifty-thousand dollars (\$750,000) within one-hundred twenty (120) days of the effective date of the legislation approving this Franchise. Grantee may fulfill this obligation by transferring ownership of the Public Access facility located at 1125 North 98th Street in Seattle, Washington to the City's Designated Public Access Manager. Until such time as the Public Access facility is transferred to the Designated Public Access Manager, Grantee shall provide and maintain the existing Public Access facility under terms no less favorable than those contained in the lease between Grantee and the Seattle Community Access Network (SCAN) in effect as of March 1, 2001.

(C) Nothing in this section shall prevent the Designated Access Manager for Public Access from engaging in general public fundraising activities to provide additional support for Public Access or Grantee from providing training grants or other financial support for Public Access.

6.5 Access Programming

All Programming transmitted over PEG Access Channels shall be non-commercial in nature. Program material to be distributed on PEG Access Channels shall contain no advertising or commercial content for which consideration is received by the City or an Access Programmer. Grantee and City agree that City or an Access Programmer may include acknowledgments for Persons which sponsor or underwrite Access Programming in a manner substantially similar to the sponsorship information provided on the Public Broadcasting System.

6.6 Access Interconnections.

(A) Grantee shall continue all Interconnections of Access Channels in effect on the Effective Date of this Franchise and as otherwise provided herein, unless otherwise authorized or directed by the City.

(B) Grantee shall ensure that signal quality comparable to that available on the Subscriber network and routing systems are provided continuously for all Access Interconnections throughout the duration of this Franchise.

(C) If technically feasible and with prior permission from other affected jurisdictions, PEG Channels shall be Interconnected with contiguous franchises at the City's discretion and cost.

6.7 Changes in Technology.

(A) Interactivity. In the event Grantee offers commercial interactive services on its Cable System and at such time as Subscribers subscribe to such interactive services, Grantee shall make available to the City equivalent interactive capabilities in accordance with Subsection 6.2(A). Any Subscriber equipment necessary to use interactive features on such Access Channels shall be made available to Subscribers on the same terms as for commercial uses. For purposes of this subsection, "interactive services" means two-way communication over the Cable System in which the Subscriber interacts with the program being viewed, but does not include merely ordering and receiving pay-per-view, video on demand, or other Cable Services.

(B) Digitization of Analog Channels. Grantee may, at its sole discretion, move analog PEG Access Channels to digital format, if and when all Subscribers who wish to receive PEG Access Channels already have the necessary equipment to view programs in digital format. The City may require Grantee to digitally compress one or more of the analog PEG Access Channels at or after the time that Grantee converts a majority of the local broadcast channels carried on its Cable System to compressed digital transmission.

6.8 Technical Quality.

(A) Grantee shall maintain all Upstream and Downstream and Closed Access Channels and Interconnections of Access Channels at the level of technical quality and reliability required by this Franchise and all other applicable laws, rules and regulations or at the same level of quality as comparable Subscriber Channels, whichever is higher.

(B) PEG Channel Signal Quality. Grantee shall deliver to Subscribers PEG Channel Programming contemporaneously with its delivery to Grantee by Designated Access Managers, without change in its content or format (such as six (6) MHz, NTSC, or standard digital or HDTV formats) from that provided by Designated Access Managers. Grantee will not alter any PEG signal to either improve or degrade the PEG signal or alter, fail to retransmit or remove any formatting or coding information or data associated

with any such signal, such as information associated with stereo closed captioned or digital transmissions.

6.9 Complementary Service

(A) Grantee shall install and furnish, at its sole cost, Basic Service and expanded basic cable service, including any required terminal equipment, to buildings in the Franchise Area owned and operated by the City for public purposes and not residential use (residential areas of fire and police stations excepted), as designated by the City.

(B) Grantee shall install and furnish, at its sole cost, Basic Service and expanded basic cable service and “cable in the classroom” (or a reasonably available alternative program), including any required terminal equipment, to every School building in the Franchise Area.

6.10 Access Channel Viewership Information

(A) Survey Data. Grantee will share with the City any data it obtains in its normal course of business about PEG channel viewership and demographics.

(B) Ratings. Grantee shall promptly provide copies of any ratings information it obtains on a regular basis in its normal course of business from a third party concerning viewership of PEG Channels to the City (for Cable Services provided on any Governmental or Educational Channel) and to the Designated Public Access Manager (for Cable Services provided on any Public Access Channel); provided, however, that with respect to any such ratings, Grantee shall redact any personally identifiable information prior to providing such information to the City or PEG providers as applicable. The preceding sentence shall not apply to any information Grantee receives from an ascertainment it has commissioned in connection with the renewal of the Franchise or to any information Grantee generates on its own in connection with such renewal.

6.11 PEG Information for Subscribers

(A) Once every twelve (12) months from the effective date of legislation approving the Franchise, with a minimum of sixty (60) days prior written notice from the City, Grantee shall insert in a monthly Subscriber billing statement and make available at walk-in customer facilities, a newsletter or other similar publication provided by the City regarding Public, Educational and Government Access Programming and activities.

(B) If provided by the City, Grantee shall include written information about Public, Educational and Governmental Access Programming and activities in materials provided to Subscribers at the time of Cable Service installation.

6.12 Cost Treatment of PEG Costs.

Any and all payments by Grantee to City in support of PEG Access Programming shall not be deemed "Franchise Fees" within the meaning of Section 622 of the Cable Act (47 U.S.C. § 542). Any PEG Access support fees required by this Franchise are intended to conform to the provisions of Section 611 of the Cable Communications Policy Act of 1984, and further are intended to be payments of the type described in Section 622(g) (2) (B) and (C) of said Act, and not to be or to constitute Franchise Fees.

SECTION 7. GENERAL CABLE SYSTEM REQUIREMENTS

7.1 System Characteristics.

Grantee's Cable System shall, at all times during the Franchise term, meet or exceed the following requirements:

(A) Industry-accepted Equipment. The System shall use equipment generally used in high-quality, reliable, modern systems of similar design, including, but not limited to, backup power supplies rated at a minimum of twelve (12) hours at the Headend and two (2) hours at each fiber optic node located throughout the Cable System. In addition, the System's electronics shall be capable of passing through the signals received at the Headend without substantial alteration or deterioration (thus, for example, the System shall include components so that a signal received at the Headend in color may be received by a Subscriber in color and a stereo signal in stereo). The Facilities and equipment on the Cable System must be able to deliver high quality signals that meet or exceed FCC technical quality standards regardless of the particular manner in which the signal is transmitted. Grantee shall comply with all applicable laws and regulations concerning System compatibility with Subscribers' television receivers and/or recording devices.

(B) Grantee shall comply with all FCC regulations regarding scrambling or other encryption of signals.

(C) No Deterioration to Access Signals. The System shall be so constructed and operated that there is no significant deterioration in the quality of PEG Access Channels or leased access signals, either upstream or downstream, as compared with any other Channels on the System; however, Grantee shall not be required to alter a PEG Access Channel or leased access signal if the Channel or signal received by Grantee is of poor quality. Deterioration refers to any signal problem, including, but not limited to, ghost images and other interference and distortions.

(D) Parental Control. Grantee shall ensure that means are available to enable Subscribers to completely block out audio and video on any undesired Channels on the System.

(E) Program Security. The System shall include equipment so that any pay-per-view programming can only be activated by the positive action of a Subscriber using, for example, a private identification number or other individual selection procedure.

(F) Service to Persons with Disabilities. The System shall transmit closed captions for all Programming that includes a closed caption signal. For hearing impaired Subscribers, Grantee shall provide information concerning the cost and availability of equipment to facilitate the reception of services for the hearing impaired. In addition, Grantee must have means available, and a publicly listed telephone number for such means, that will allow hearing- or speech-impaired persons to contact the Grantee.

7.2 System Functionality

(A) The Cable System shall have the following characteristics:

- (1) bandwidth of at least 750 MHz on all active and passive components;
- (2) no more than fifteen hundred (1,500) homes passed on the average served from any fiber node; and
- (3) bidirectional activation.

7.3 Emergency Alert System.

(A) Grantee shall install and maintain for use by the City an Emergency Alert System ("EAS") meeting all applicable requirements of federal law.

(B) Grantee's System shall include the capability for the City to access the EAS using non-location-specific technology, without the assistance of the Grantee, in the event of emergency or for reasonable tests, to override at least the audio on all Channels on Grantee's System to utilize the federally mandated EAS in accordance with applicable state or local plans or with broadcaster preemption of override of individual signals.

(C) Grantee shall broadcast all EAS messages initiated by the City or King County.

7.4 Upgrade to Maintain Technological Currency.

At the City's request upon the showing required pursuant to Subsection 7.5 and subject to the procedures of Section 20, the Cable System, and any affected component thereof, shall be upgraded during the term of this Franchise to maintain a condition of technological currency. If such an upgrade is required, the term of this Franchise shall be extended an additional seven (7) years from the date the upgrade is ordered or the date the requirement is finally upheld under the procedures of Section 21, whichever is later, and the appropriate costs of the upgrade shall be deemed external costs passed directly to Subscribers for rate regulation purposes, both at Grantee's option.

7.5 Technical Upgrade Procedure.

(A) At any time after the fifth year of the term of this Franchise the City may require a technical upgrade of the Cable System upon one of the following showings:

(1) that at least thirty percent (30%) of the cable systems owned or operated by Grantee or its Affiliated entities have upgraded their capacity to a material degree beyond that of Grantee's Cable System; or

(2) that there is a material disparity between the level of service and capacity of Grantee's Cable System and that of a significant number of other comparable systems, and that there is a demonstrable need and public interest to be served by the upgrade.

(B) The City may conduct an inquiry to determine whether either showing can be made. Grantee shall cooperate with the City in the investigation and provide information, including, if reasonably available, estimated general cost figures, technical specifications, and equipment specifications that may assist such an undertaking.

(C) Grantee acknowledges and agrees that the City's investigation may include information not provided by Grantee, and that the City may commission third parties, as necessary, to ascertain facts in support of either showing. The public may also be invited to comment on the technical currency of the Grantee's system.

(D) In the event the City's investigation indicates that a technical upgrade may be necessary under either showing, the City may invoke the provisions and procedures of Section 20 to determine whether and to what extent an upgrade of the system is required.

SECTION 8. UPGRADE & EXTENSION PROJECT SPECIFICATIONS

8.1 Introduction.

Any Cable System Rebuild or Upgrade project shall be designed so as to minimize Cable Service interruptions and inconvenience to Subscribers. Subscribers will be informed of the impending Upgrade or Rebuild project and the benefits of the new Cable System. Grantee will maintain a toll-free telephone number during construction, so that Subscribers may call with questions or complaints.

8.2 Cable System Rebuild Timeframe.

Grantee will complete any Rebuild or Upgrade of the Cable System in the City within a period of time agreed to by Grantee and the City.

8.3 Construction Plan and Practices Submittals and Approvals.

Upon request by the City, Grantee will allow the City to view current copies of its applicable construction procedures and fiber optics manuals. Grantee will supply copies of these manuals to all contractors and ensure through routine inspections that all contractors comply with such

practices. Grantee will provide periodic updates, as specified by the City, of its construction plans.

8.4 Compliance with Construction and Safety Standards.

Grantee will construct and maintain its Cable System using applicable City codes and the following safety codes and construction standards in its construction practices:

NEC - NATIONAL ELECTRICAL CODE

NESC - NATIONAL ELECTRICAL SAFETY CODE

OSHA - OCCUPATIONAL SAFETY AND HEALTH ACT

WISHA - WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT

Nothing herein shall preclude Grantee from raising any and all defenses it may have under applicable codes, including the argument that its Cable System may be grandfathered under prior provisions of such applicable codes.

8.5 Workmanship.

Grantee will construct its Cable System in a workmanlike manner, consistent with Subsection 13.5.

8.6 Quality of Service.

During Upgrade or Rebuild, Grantee agrees to provide Cable Service at a level consistent with current FCC standards.

8.7 Construction and Work Permits, Licenses and Permission.

Grantee agrees to file for and secure any required permits and/or licenses prior to commencement of any activity in the public Right of Way. Grantee shall notify the City when permitted work is completed to facilitate inspection.

8.8 Construction Area Safety and Cleanup.

Grantee agrees to inspect its contractor(s) on a regular basis and ensure that both its personnel and contractor(s) provide clean-up of all workplaces and adhere to industry safety as well as all state and local safety standards. Grantee shall provide specified periodic reports of its inspections to the City.

8.9 Component and System Tests, Records and Test Points.

Grantee will initially test all active components before installation into the Cable System. Initial proof-of-performance will meet or exceed the minimum requirement set forth in FCC Rules & Regulations Part 76, SubPart K "Technical Standards." There will be a test point located at the extremities of each node.

8.10 Service Cutover Process.

Grantee agrees to adopt the necessary procedures to ensure minimal disruption of Cable Service to Subscribers when activating and converting Subscribers to the upgraded or rebuilt Cable System.

8.11 Service Connections.

(A) Standard Installation for an Unwired Dwelling Unit. Standard installation of an unwired dwelling unit shall be installation of Cable Service to the Subscriber's Dwelling Unit located up to one hundred twenty-five (125) feet from the existing distribution system, plus additional inside wire and at least one outlet sufficient to receive Cable Services.

(B) Standard Installation for a Prewired Dwelling Unit. Standard installation of a prewired dwelling unit shall be installation of Cable Service to the Demarcation Point located on the Subscriber's property up to one hundred twenty-five (125) feet from the Subscriber's property line, sufficient to receive Cable Services and where the prewired equipment will allow the Cable System to meet all FCC technical requirements.

(C) Non-Standard Installations. Any installation of Cable Service that requires: (1) the installation of Facilities from a point more than one hundred twenty-five (125) feet from the Subscriber's property line to, in the case of a prewired Dwelling Unit, the Demarcation Point or, in the case of an unwired Dwelling Unit, a point not less than twelve (12) inches from the exterior wall of the Dwelling Unit; or (2) any underground installation in an area where plant Facilities are not underground; or (3) any installation calling for multiple outlets in a Dwelling Unit; or (4) a commercial installation; shall be considered a Non-standard Installation.

(D) Rates and Charges. Charges for Standard Installations may not exceed the Grantee's published rates. Charges for Non-Standard Installations shall not exceed the Grantee's published hourly service charge for non-standard transactions, and may be applied only to that portion of the installation defined as a Non-Standard Installation in Subsection (C) above.

8.12 Line Extensions in the Central Business Franchise District

(A) General

The phrase "line extension costs" as used in this subsection shall mean the total construction costs of the extension as determined by Grantee. Construction costs are defined as the actual necessary costs to construct the extension, exclusive of profit and the cost of the house drop.

Grantee's obligation to extend its Cable System in the Central Business Franchise District ("CBFD") shall be as described in this Subsection 8.12. Grantee shall have the obligation to extend its Cable System to all residents in the CBFD, including residents in a multiple Dwelling Unit ("MDU"), except where: (i) residents in the MDU are currently receiving Cable Services from another Cable Operator under a franchise agreement with the City; or (ii) an MDU is connected to the necessary Cable System components of another Cable Operator to be able to receive Cable Services; or (iii) the owner of the MDU and another Cable Operator are parties to an existing Right of Entry Agreement or other similar agreement granting access to the building for the purpose of providing Cable Services; or

(iv) the owner of the MDU and Grantee have not agreed upon and entered into a Right of Entry Agreement and/or Cable Services Agreement which covers any inside wiring or other Cable Service improvements; provided, however, that Grantee shall not propose terms for the purpose of avoiding service to any MDU. All Right of Entry Agreements and/or Cable Service Agreements covering an MDU are subject to the terms of Subsection 16.5 of this Franchise Agreement. Grantee shall maintain evidence that it has attempted to secure a Right of Entry Agreement and/or Cable Service Agreement, and provide such evidence at the City's request.

If any line extension charges to Subscribers are applicable under this subsection, Grantee may, in its sole discretion, waive all or a portion of the extension charges if it deems it commercially desirable. Grantee may also require that payment of up to one hundred percent (100%) of the line extension costs to be borne by potential Subscribers under this subsection be paid in advance; however, nothing in this subsection shall prohibit Grantee from providing more favorable payment terms to Subscribers.

Whenever the City is contacted by a potential Subscriber or residential building owner who believes that a line extension estimate is unreasonable, the City may request, and Grantee shall provide, information pertaining to all construction costs included in the total line extension estimate provided to the potential Subscriber or residential building owner. The City may also request that the Cable Operator arrange for and host a meeting between the City and the contractor that provided the estimate.

(1) Line Extensions in Area North

Whenever the Grantee receives a request for Cable Service from a potential residential Subscriber in Area North of the CBFD, Grantee shall extend its Cable System to such Subscriber at no cost to said Subscriber for the Cable System extension, other than the published Standard/Non-Standard Installation fees, where Grantee's total cost of construction is no greater than twelve hundred dollars (\$1,200.00) per Dwelling Unit. Grantee shall have no obligation to extend its Cable System to provide Cable Service to Subscribers where Grantee's cost of construction is greater than twelve hundred dollars (\$1,200.00) per Dwelling Unit, unless Subscribers to be served by the extension agree to pay all additional costs in excess of said amount. In the case of an MDU, Grantee shall multiply the twelve hundred dollars (\$1,200.00) maximum cost cap by the total number of residential units in the building, regardless of the number of potential Subscribers. Such sum shall represent Grantee's maximum cost for line extension costs to an MDU.

(2) Line Extensions in Area South

No potential residential Subscriber requesting Cable Service shall be refused Cable Service arbitrarily. Whenever the Grantee receives a request for Cable Service from a potential residential Subscriber in Area South of the CBFD as defined in Subsection 4.1, and where there are at least fifteen (15) Dwelling Units within one thousand three hundred twenty (1,320) cable-bearing strand feet from the portion of Grantee's trunk or distribution cable which is to be extended,

Grantee shall extend its Cable System to such Subscribers at no cost to said Subscribers for the Cable System extension, other than the published Standard/non-Standard Installation fees. However, if any area in Area South of the Central Business Franchise District does not meet the density requirements set forth in this subsection, Grantee shall only be required to extend the Cable System to Subscriber(s) in that area if the Subscriber(s) are willing to share the construction costs for extending the Cable System. Specifically, the Grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of Dwelling Units per one thousand three hundred twenty (1,320) cable-bearing strand feet from Grantee's trunk or distribution cable, and whose denominator equals fifteen (15). Subscribers who request Cable Service hereunder shall bear the remaining cost to extend the Cable System on a *pro rata* basis. A Subscriber shall also be responsible for any Standard/non-Standard Installation charges to extend the Cable System from the tap to the Dwelling Unit.

8.13 Line Extensions in the Central Cable Television Franchise District.

Grantee's obligation to extend its Cable System in the Central Cable Television Franchise District ("CAFD 1A") shall be as described in this subsection.

(A) **Guaranteed Service Area.** Grantee shall, upon request for service, provide Cable Services to any Dwelling Unit within the Guaranteed Service Area, as defined in Subsection 4.1(E)(1), under the terms and conditions of this Franchise. Cable Services shall be installed within seven (7) business days of a request for services, provided that the installation is a "Standard Installation" as that term is defined in Subsection 8.11. Other than the applicable Standard Installation or Non-Standard Installation charge, no additional line extension related charges shall be billed to the Subscriber.

(B) **Adjacent Area.** Grantee shall have the option to construct the Cable System and provide Cable Services to Dwelling Units within the Adjacent Area, as defined in Subsection 4.1(E)(2). In the event that Grantee chooses to provide Cable Services to a potential Subscriber within the Adjacent Area, Grantee shall be obligated to provide Cable Services to any Dwelling Unit within CAFD 1A that fronts or backs upon the Right of Way used by the Cable System within the Adjacent Area under the terms and conditions of this Franchise. Cable Service shall be provided within seven (7) business days of a request for services for a "Standard Installation" as that term is defined in Subsection 8.11. No additional line extension related charges shall be billed to the Subscriber other than the applicable Standard or Non-Standard Installation charge.

SECTION 9. TECHNICAL OPERATION AND MAINTENANCE STANDARDS AND REQUIREMENTS

9.1 Technical and Safety Standards.

Grantee will construct and maintain its Cable System using applicable City codes and the following safety codes and construction standards: NEC - NATIONAL ELECTRICAL CODE; NESC - NATIONAL ELECTRICAL SAFETY CODE; OSHA - OCCUPATIONAL SAFETY AND HEALTH ACT; WISHA - WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT.

Nothing herein shall preclude Grantee from raising any and all defenses it may have under applicable codes, including the argument that its Cable System may be grandfathered under prior provisions of applicable codes.

9.2 Network Monitoring and Repair.

Grantee shall monitor all power supplies and fiber nodes, utilizing the latest in status monitoring techniques and will effect repairs within a twenty-four (24) hour time period as required by applicable FCC Rules and Regulations.

9.3 Routine Maintenance and Performance Testing.

Grantee will maintain the Cable System by providing routine maintenance and performance testing to meet the requirements of FCC Rules and Regulations; Part 76, including bi-annual proof of performance tests.

9.4 Spare Parts.

Grantee shall have immediately available a sufficient supply of spare parts to effect repairs in accordance with the requirements of this Franchise.

9.5 Testing Notification.

Grantee shall notify the City in advance of testing for compliance with FCC signal standards. The City may have a representative present to observe such tests and may designate one location to be tested. Grantee shall provide the City with a report of testing for compliance with FCC standards in accordance with Section 17 and upon request (but not more than twice a year). Such report shall state, in pertinent part, that the Cable System is in full compliance with FCC rules and regulations or, in the alternative, set forth with specificity and in detail all areas of non-compliance, their actual or likely scope and causes, and a plan for instituting corrective measures to immediately and permanently correct the non-compliance.

9.6 NESC Records

Grantee shall provide, consistent with Subsection 17.1, any records that may be required by the NESC rules which apply to the construction and maintenance of Grantee's Cable System in the City.

SECTION 10. SUBSCRIBER RELATIONS AND SERVICE STANDARDS COMPLAINT PROCEDURE.

10.1 Office Hours and Telephone Availability.

(A) The Grantee shall maintain a local or toll free telephone Subscriber service access line which will be available to its Subscribers twenty-four (24) hours a day, seven (7) days a week.

(B) Trained company representatives shall be available to respond to Subscriber telephone inquiries during Normal Business Hours.

(C) After Normal Business Hours, the Subscriber service access line may be answered by an answering service, automated response system or an answering machine. A qualified Grantee representative shall respond on the next business day to inquiries received after Normal Business Hours.

(D) Under Normal Operating Conditions, telephone answer time by a Subscriber representative, including wait time, shall not exceed thirty (30) seconds after the connection is made. If the call must be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met not less than ninety percent (90%) of the time under Normal Operating Conditions, as measured on a quarterly basis.

(E) Under Normal Operating Conditions, the Subscriber shall receive a busy signal less than three percent (3%) of the time.

(F) Grantee shall maintain a file of all Subscriber complaints not resolved by phone that is available for City inspection. The file will include subject of complaint, how it was resolved, when it was resolved, and any additional action taken by caller or Grantee. In addition, the City may order periodic sampling of the number and general categories of complaints resolved by phone during the sampling period, not to exceed five (5) days per quarter.

(G) Grantee shall establish at least two (2) service centers where Subscribers may pick up and return equipment and pay bills ("Subscriber Service Centers"). The Subscriber Service Centers and any other bill payment locations shall be open at least during Normal Business Hours and shall be conveniently located at safe, visible sites within the Grantee's Franchise Area. The Subscriber Service Centers shall be handicapped accessible and located along mass transit routes.

10.2 Installations, and Subscriber Service Calls.

Under Normal Operating Conditions, each of the following standards shall be met not less than ninety-five percent (95%) of the time measured on a quarterly basis.

(A) Standard Installations for Dwelling Units shall be performed within seven (7) business days after an order has been placed, unless otherwise requested by Subscriber.

(B) The "appointment window" alternatives for installations, service calls, and other activities shall be, at maximum, within a four (4) hour block during Normal Business Hours. The Grantee may schedule service calls and other installation activities outside Normal Business Hours at the request of and for the convenience of the Subscriber.

(C) The Grantee may not cancel an appointment with a Subscriber after the close of business the day before the appointment unless Grantee is prevented from making the appointment by any condition outside its control. In the event cancellation occurs, the appointment must be rescheduled in accordance with Subsection 10.2(D).

(D) If a representative of the Grantee will not be able to keep an appointment, the Grantee shall reschedule the appointment at a time convenient for the Subscriber.

(E) If the cable signal on any Channel is below FCC technical standards for more than two (2) weeks, Grantee shall provide upon the Subscriber's request a proportionate rebate for the entire period that the Channel is below FCC technical standards.

(F) If a Subscriber requests disconnection of any or all services, billing for affected services shall end on the same day. The Subscriber shall not be responsible for Cable Services delivered after the request. The Grantee must refund any credit balance owed the Subscriber, less any owed or disputed amounts, within fifteen (15) business days after the close of the Subscriber's billing cycle following the return of the equipment and request for disconnection.

(G) The Grantee shall provide Subscribers with at least twenty-four (24) hours' advance notice of planned service interruptions anticipated to last more than four (4) hours. Interruptions shall occur only during periods of minimal use of system and shall not occur except for good cause.

10.3 Communications Between Grantee and Subscribers.

(A) Identification. Subscriber service representatives shall appropriately identify themselves. Field representatives shall provide Grantee-issued picture identification and, upon request, means of verification.

(B) Notifications to Subscribers.

(1) Grantee shall provide written information on each of the following areas at the time of installation of Cable Service and at least annually to all Subscribers' Dwelling Units and at any time upon request:

(a) all products and services offered, including the Basic Service Tier;

(b) prices and options for all Programming services, conditions of subscription to Programming and other services and policies concerning changes in

services offered, notification of changes, disconnection and service downgrades;

(c) installation and service maintenance policies, including Subscribers' responsibilities for equipment;

(d) instructions on the use of Cable Services;

(e) Channel positions of Programming;

(f) billing and complaint procedures, including addresses and telephone numbers where Subscribers may make billing inquiries and/or complaints, Grantee's policies on deposits and credit balances, returned check charges, refunds for disruption of service or poor reception, and the address and telephone number and description of services of the City of Seattle's Office of Cable Communications or any future office or department assigned duties relating to the regulation of Cable Services; and

(g) policies concerning protection of Subscribers' privacy.

(2) Subscribers shall be notified of any changes in Programming, services or Channel positions as soon as possible in writing, and when notifying Subscribers of changes in digital Programming, services or Channel positions, through announcements on the Cable System. Subscribers shall be given a description of the changes, their options (including costs) for changing services they receive, phone number for questions and effective date. Notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the Grantee. In addition, the Grantee shall notify Subscribers thirty (30) days in advance of any significant changes in the other information required by the preceding subsection.

(3) Affected Subscribers shall have thirty (30) days after a change in services or rates to downgrade their service without charge.

(4) All promotional materials advertising Cable Services shall accurately disclose price terms. In addition, Grantee's customer service representatives shall disclose all tiers of Programming available. If a Subscriber calls Grantee's Subscriber Service Center to purchase pay-per-view event Programming, Grantee's customer service representatives shall make the price of pay-per-view and pay-per-event Programming clear before an order is taken. Grantee shall distribute collateral/promotional material in multi-unit buildings only with the approval of the building owner. Grantee shall not condition the provision of Cable Services on the receipt of such approval.

(5) Grantee shall not charge Subscribers for any services they have not affirmatively requested; provided, this subsection shall not prevent adding Programming to an existing Tier.

(C) Grantee shall provide written notification of the availability of all Tiers of Cable Service, including the Basic Service Tier, to Subscribers at the time of installation and annually thereafter and shall provide such information, upon request, over the telephone. This notification shall include, at a minimum, the following:

- (1) availability of all Cable Service Tiers, including the Basic Service Tier;
- (2) cost per month for the Basic Service Tier;
- (3) a channel card identifying all Channels available in all Tiers of Cable Service, including the Basic Service Tier.

(D) Billing.

(1) Bills shall be clear, concise and understandable. Bills may be fully itemized to the extent allowed by law and this Franchise, provided that all bills shall clearly reflect only a single total amount due. Bills shall also clearly delineate all activity during the billing period, including optional charges, rebates and credits. Franchise Fees, costs and taxes shall be itemized in a manner that accurately and fairly portrays the basis for the taxes and fees.

(2) In case of a billing dispute, the Grantee shall respond within twenty (20) days. The first response to a specific complaint may be oral if provided within ten (10) days, and if subsequent responses to the same complaint are in writing. Grantee shall also provide a written response when specifically requested by the Subscriber.

(3) Bills shall not be past due sooner than thirty (30) days after the date of mailing. The closing date of the billing cycle shall be shown on the bill.

(E) Refunds. Refund checks shall be issued promptly, as provided in Subsection 10.2(F).

(F) Credits. Credits for service shall be issued no later than the Subscriber's next billing cycle or thirty (30) days after the determination that a credit is warranted, whichever is sooner.

(G) Delinquent Account Disconnection. Grantee shall send written disconnect notices, which may be included in the bill if visually distinct from the rest of the bill, clearly stating the amount past due that must be paid to avoid disconnection, the total amount due, and the customer service phone number. If the Subscriber does not respond, Grantee may disconnect the Subscriber ten (10) days after the disconnect notice is sent.

(H) Deposits. Deposits shall accrue interest at a fair market rate. Within ten (10) days after termination of service, Grantee shall repay any deposit with a statement showing accrued interest to the Subscriber, less any sums owed to Grantee.

10.4 Subscriber Rights.

(A) Discrimination Prohibited. Grantee shall comply at all times with all applicable laws, rules, and regulations including the terms of the Franchise relating to non-discrimination.

(1) All Grantee rates and charges shall be published and non-discriminatory. Except as provided hereunder, Grantee shall establish similar rates and charges for all Subscribers receiving similar services, regardless of type of Dwelling Unit, race, color, religion, age, sex, gender identity, marital or economic status, national origin, sexual orientation, political ideology, creed, ancestry; the presence of any sensory, mental or physical handicap; or geographic location within the Grantee's Franchise Area. Nothing in this subsection shall be construed to prohibit the temporary reduction or waiving of rates and charges in conjunction with promotional campaigns or discounted rates for provision of Cable Services to multiple Dwelling Unit buildings.

(2) Grantee shall not deny Cable Service, or otherwise discriminate against Subscribers, Access Programmers or any other Persons on the basis of type of Dwelling Unit, race, color, religion, age, sex, gender identity, marital or economic status, national origin, sexual orientation, political ideology, creed, ancestry; the presence of any sensory, mental or physical handicap; or geographic location within the Grantee's Franchise Area.

(3) The Grantee shall not take any retaliatory action against a Subscriber because of the Subscriber's exercise of any right it may have under federal, state, or local law, nor may the Grantee require a Subscriber to waive such rights as a condition of service.

(B) Privacy. Grantee shall comply with the Subscriber privacy regulations set forth in 47 U.S.C. § 551 and any lawful state or local laws pertaining to privacy.

(C) Services to People with Disabilities. Grantee shall make Cable Services available to the maximum practical extent to persons with disabilities. Grantee shall provide telecommunication devices for the deaf (TTY) at the cable office during Normal Business Hours and shall disseminate information on the cost and availability of closed captioning equipment for the hearing impaired and such other services to disabled persons as the City may determine.

(D) Permission of Property Owner or Tenant for Installation. Grantee shall not install or attach any of its Facilities to any Dwelling Unit or other property without first securing the written permission of the owner or tenant of any property involved, or of such other person who has the right to approve or disapprove the attachment, except where there is

an existing utility easement. If such permission or easement is later revoked, the Grantee, at the request of the person with the right to approve or disapprove the attachment, shall promptly remove any of its Facilities and promptly restore the property to its original condition at Grantee's expense. Grantee shall perform all such installations and removals in a workmanlike manner and shall be responsible for any damage to residences or other property caused by the installation or the removal. Provision of Cable Service may not be conditioned on any Right of Entry Agreement other than as specified by this Franchise. However, this subsection shall not affect the Grantee's right to furnish additional consideration in exchange for such an agreement.

SECTION 11. COMPENSATION AND AUDITING

11.1 Amount of Compensation.

In consideration of permission to use the Rights of Way of the City, the Grantee shall pay annually as a Franchise Fee to the City, throughout the duration of this Franchise, an amount of up to five percent (5%) of Grantee's Gross Revenues. The Franchise Fee shall be set by ordinance passed by the City Council. If during the term of this Franchise, the FCC, federal or state government, or the courts effectively permit the City to impose a Franchise Fee greater than five percent (5%), the City shall have the right to increase the Franchise Fee to take full advantage thereof. Any change in Franchise Fee percentage shall be imposed on all similarly situated multichannel video providers ("MVP's") over which the City has jurisdiction and authority to impose such fees, excluding MVP's franchised prior to the Effective Date of this Franchise, so long as the change in Franchise Fee percentage is incorporated upon renewal of the MVP's franchise.

11.2 Effect of Additional Commitments on Franchise Fees.

Except as specifically provided in this Franchise or permitted by federal or state law, no term or condition in this Franchise shall in any way modify or affect the Grantee's obligation to pay the Franchise Fee. Although the total sum of Franchise Fee payments and additional financial and other obligations of this Franchise may exceed five percent (5%) of Grantee's Gross Revenues in any twelve (12) month period, Grantee agrees that the sole Franchise Fee provided for in this Franchise is the Franchise Fee called for in Subsection 11.1 and that no other obligation of Grantee under this Franchise constitutes a Franchise Fee, nor shall any such obligations be offset or credited against any Franchise Fee payments due to the City, except as specifically provided by this Franchise, other City Ordinance, or federal or state law.

11.3 Payment of Franchise Fees on Bundled Services.

(A) In the event Grantee bundles or combines Cable Services (which are subject to the Franchise Fee) with Non-Cable Services (which are not subject to the Franchise Fee) so that Subscribers pay a single fee for more than one class of service resulting in a discount on Cable Services, Grantee agrees that for the purpose of calculation of the Franchise Fee, it shall allocate to Cable Service revenue no less than a pro rata share of the revenue received for the bundled or combined services. The pro rata share shall be computed on the basis of the published charge for each service in the bundled or combined classes of services when purchased separately.

B) This subsection is not intended to apply to reduction in Franchise Fees that result from other causes such as changes in the law, Subscriber losses, Subscriber service downgrades, Force Majeure, or short-term promotional activities (i.e., premium channel discounts or sales).

(C) The City shall have the right to audit records regarding the allocation of revenues derived from bundles involving Cable Services and Non-Cable Services. Upon the City's request, Grantee will meet with the City or a designated City representative following reasonable advanced notification to explain the methodology Grantee is using to allocate revenues generated from bundled services. If the City reasonably believes Grantee is allocating bundled revenues contrary to the provisions of Subsection 11.3, the City may submit the matter to a third party for mediation. The cost of the mediation shall be shared equally between the City and the Franchisee. Participation in mediation shall not prejudice the right of either party to bring the matter to a court of competent jurisdiction or pursue any other remedies available to them in this Franchise or by law.

11.4 Payments and Monthly Reports.

(A) Payments. Grantee's Franchise Fee payments to the City shall be computed monthly following the Effective Date of this Franchise. Each payment shall be due and payable at the same time as the Utility Business and Occupation Tax payment for the same period.

(B) Monthly Reports. Each payment shall be accompanied by a written report to the City, verified by an officer of Grantee, containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount. Such reports shall be in form and substance satisfactory to the City and shall include revenue by product category.

11.5 Interest on Late Payments.

Payments not received within forty-five (45) days from the quarter ending date shall be assessed interest compounded at the rate of one percent (1%) per month from the due date or the highest rate allowed by law, whichever is greater, but not to exceed eighteen percent (18%) in any event.

11.6 Acceptance of Payment and Recomputation.

No acceptance of any payment shall be construed as an accord by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the City may have for further or additional sums payable or any other claim or right. All amounts paid shall be subject to audit and recomputation by the City, provided that such audit and recomputation is completed within six (6) years of the date payment was due. If the City requests in writing that the Grantee provide, or cause to be provided, any information reasonably within the scope of the audit, and the Grantee fails within thirty (30) days of receipt of the request to provide such information or cause it to be provided, then the six (6) year period shall be extended by one day for each day or part thereof beyond thirty (30) days that Grantee such failure continues and Grantee shall pay Liquidated Damages in accordance with Section 19.

11.7 Audits.

(A) The City reserves the right to conduct audits relating to matters arising under this Franchise or to retain an independent Certified Public Accountant to conduct such audits. In the event an audit results in a determination that Grantee has underpaid any Franchise Fee arising under this Franchise by five percent (5%) or more, or materially misstated financial information in any report furnished to the City, Grantee shall reimburse the City for the costs of the audit.

(B) Grantee shall pay to the City any amounts any audit indicates are owed following an independent review of such audit. Such payment shall be made whether or not the Grantee's obligation for such payment arose before or after the effective date of this Franchise.

11.8 Compensation for Non-Cable Services.

Nothing in this section should be construed as a limitation or expansion of the City's authority to require compensation for the use of its Rights of Way for the provision of Non-Cable Services to the extent permitted by applicable law.

11.9 No Offset or Credit Against Franchise Fees.

The City and Grantee agree that any utility tax, business and occupation tax or similar tax shall be in addition to any Franchise Fees required herein and there shall be no offset or credit against Franchise Fees for any utility tax, business and occupation tax or similar tax, subject to applicable law.

SECTION 12. INDEMNIFICATION, INSURANCE, BONDS AND SECURITY FUND.

12.1 Indemnification.

(A) General Indemnification. Grantee shall indemnify, defend and hold the City, its officers, agents and employees, harmless from any claim for injury, damage, loss, liability, cost or expense arising in whole or in part from, incident to or connected with any act or omission of the Grantee, including, without limitation, any construction, excavation, operation, maintenance, reconstruction or any other act done under this Franchise, by or for Grantee or its Parent Corporations, their agents, their contractors or their employees, and including any neglect or omission of Grantee to keep its Cable System in a safe condition. This obligation to indemnify and hold the City harmless shall include the obligation to pay attorneys' fees, expert fees, and all other costs of defending any indemnified claim and all such costs incurred in recovering against Grantee under this indemnity provision. To the maximum extent permitted by law, this indemnity obligation shall not be extinguished or reduced in the event an act or omission of the City is a concurrent cause of the claim or loss, but no indemnity shall be owed in the event the sole cause of any claim or loss is the sole negligence of the City or a willful act or omission of the City in violation of this Franchise. Grantee shall consult and cooperate with the City in the conduct of the City's defense. The City shall fully cooperate with the Grantee in said defense.

(B) Indemnification for Relocation. Grantee shall indemnify the City for any damages, claims, additional costs or expenses assessed against or payable by the City arising out of or resulting, directly or indirectly, from Grantee's failure to remove, adjust or relocate any of its Facilities located on City property or Right of Way in a timely manner in accordance with Subsections 13.3, 13.4, and 13.5 and a relocation schedule furnished Grantee by the City in writing, unless Grantee's failure arises directly from the City's negligence or willful misconduct, or failure of necessary third parties to cooperate with such relocation.

(C) Duty to Give Notice and Tender Defense. The City shall give the Grantee timely written notice of the making of any claim or of the commencement of any action, suit or other proceeding covered by this indemnity. In the event any such claim arises, the City or any other indemnified party shall tender the defense thereof to the Grantee and the Grantee shall have the right and duty to accept the tender and thereafter to defend, settle or compromise any claims arising hereunder and the City shall cooperate fully therein.

(D) Exception to Duty to Tender Defense. Notwithstanding the above, the City shall have no obligation to tender a defense as a condition of the indemnity where there is a material conflict between the interests of the Grantee and the City.

12.2 Insurance.

(A) Grantee shall maintain on file with the City evidence of insurance coverage satisfactory to the City with minimum coverage and limits of liability specified below; as respects the scope of such coverage, Grantee specifically acknowledges that the limits of liability requirements specified shall neither be construed as a limitation of Grantee's liability nor shall they be construed to inure to the benefit of any insurer by serving as a limitation or cap of any insurer's limits of liability that would otherwise apply.

(B) Grantee shall maintain:

(1) Commercial general liability insurance (including premises, products and completed operations, contractual, independent contractors, employers/stop gap and personal/advertising injury liability) that shall not exclude XCU/Subsidence perils or any similar perils ("CGL Insurance");

(2) Automobile liability insurance covering owned, non-owned, leased and hired vehicles; and

(3) Workers Compensation insurance in compliance with the Revised Code of Washington Title 51 ("Industrial Insurance").

The minimum limits of liability to be maintained for CGL and automobile liability insurance shall be five million dollars (\$5,000,000) combined single limit each occurrence bodily injury and property damage (except, with respect to CGL Insurance, five million dollars (\$5,000,000) each accident/disease employers/stop gap liability and five million dollars (\$5,000,000) each offense personal/advertising injury).

(C) The City of Seattle shall by designated additional insured endorsement or blanket additional insured endorsement or policy wording be covered as an additional insured for the total corporate limits of liability maintained by Grantee for CGL Insurance and automobile liability insurance whether such limits are primary, excess, contingent or otherwise. Such additional insured status shall be primary and non-contributory with any insurance maintained by the City, and in a form acceptable to the City.

(D) Insurance coverage shall be maintained with insurers acceptable to the City and shall not be cancelable without mailing notice of cancellation not less than thirty (30) days (ten (10) days as respects cancellation for non-payment of premium) prior to the actual date of such cancellation.

(E) Certification of insurance shall be in a form and with such content that is acceptable to the City and shall include an actual copy of the designated additional insured endorsement or blanket additional insured endorsement or policy wording documenting that the City of Seattle is covered as an additional insured under Grantor's CGL Insurance.

(F) The term "insurance" and "insurer(s)" under this Subsection 12.2 shall apply to self-insurance and self-insurer(s). Should Grantee maintain self-insurance (except that subject to a deductible endorsement provision that specifies that the nonpayment of deductible amounts by the named insured shall not relieve the insurer from payment of claims), it shall disclose in writing details of such self-retained limit(s). Should such self-insurance not be fronted by an insurance company, Grantee shall issue a letter stating that it will cover the City as an additional insured for the required coverages as if a commercial insurance policy applied and will specify how and to whom a tender of claim should be directed.

(G) Certification of insurance, notice of cancellation and any other written communication under this Subsection 12.2 shall be addressed to:

The City of Seattle
Risk Management Division
700 5th Avenue, Suite 4350
P.O. Box 94669
Seattle, WA 98124-4669
riskmanagement@seattle.gov
Fax: (206) 615-0065

with a copy to the Seattle Department of Information Technology, Office of Cable Communications (*see* address in Subsection 21.9).

12.3 Construction Performance Bond.

Before beginning any construction work in or under the City streets requiring a street opening permit, Grantee shall furnish a performance bond to the City as is required for street opening

permits. The bond shall run to the City with good and sufficient surety approved by the City and shall be maintained in a sum equal to the anticipated cost of the work to be performed, but not to exceed two million dollars (\$2,000,000). The bond shall be subject to the approval of the City Attorney as to its adequacy under the requirements under this section. The bond shall be conditioned that the Grantee shall well and truly observe, fulfill and perform each term and condition under Section 13, General Use of and Construction in Right of Way. Grantee shall pay all premiums or costs associated with maintaining the bond, and shall keep the same in full force and effect at all times during the construction work. The bond shall provide that it may be terminated upon final approval of Grantee's construction work in or under the City streets by the City Engineer. Upon such approval, the City agrees to sign all documents necessary to release the bond in accordance with the terms of this subsection.

12.4 Security Fund/Letter of Credit.

(A) Amount. The Grantee's Franchise shall not become effective until the Grantee posts with the City a security fund in the form of a cash security deposit or an irrevocable letter of credit, or a combination of the two in an amount equal to one dollar (\$1.00) per Subscriber in the Franchise Area, but in no event less than twenty thousand dollars (\$20,000). It is the Grantee's responsibility to maintain this security fund throughout the Franchise term. Before any letter of credit provided to satisfy the security fund obligation expires, the Grantee must renew it or replace that letter of credit with a cash deposit, letter of credit, or combination of the two in an amount and in a form that satisfies its obligations under this subsection.

(B) Use. The City shall have the right to draw on the security fund to ensure the Grantee's faithful performance of the Franchise in accordance with applicable law. If Grantee fails to perform its obligations under the Franchise in any respect, including making any payment to the City required by this Franchise or by applicable law, including Liquidated Damages and reimbursable costs incurred by the City, the City may, after ten (10) days prior written notice to the Grantee, withdraw that amount from the security fund, a processing fee equal to five percent (5%) of the sum withdrawn, and interest for the period between any loss and the withdrawal. The City shall notify the Grantee of the amount and date of the withdrawal.

(C) Restoration of Fund. Within thirty (30) calendar days after the City gives Grantee written notice that an amount has been withdrawn from the security fund, the Grantee must deposit a sum of money in the security fund sufficient to restore it to the original amount. If Grantee fails to do so, such failure to restore shall be a material breach of this Franchise.

(D) Return of Fund. If the Franchise terminates for any reason, and the Grantee has ceased to provide service in the City, the balance of the security fund that remains following termination of the Franchise and satisfaction of all of Grantee's obligations secured by the fund shall be returned to Grantee. The City shall be under no obligation to return funds until a reasonable time, but no longer than one hundred eighty (180) days, has elapsed for the City to determine that all such obligations have been satisfied.

(E) Letter of Credit. Any letter of credit used to satisfy any portion of the security fund requirement must:

- (1) Be issued by a bank licensed to do and doing business in the State of Washington;
- (2) Be irrevocable;
- (3) Provide for automatic renewal of the letter unless the bank has given the City written notice by certified mail at least sixty (60) days prior to expiration of the letter;
- (4) Provide that the City may draw against the letter at any time prior to expiration of the letter;
- (5) Provide that the City may draw against the letter and hold the funds in escrow after termination of the Franchise:
 - (a) if the City has filed a lawsuit;
 - (b) if the City has sought to draw against the letter prior to termination and Grantee has filed a lawsuit to contest the action or to appeal the notice and order; or
 - (c) if the bank or the Grantee has filed a lawsuit to challenge or appeal the draw.

(F) Cash Security Deposit. Any cash security deposit used to satisfy any portion of the security fund requirement shall be placed in an account, the terms and conditions of which are acceptable to the City, and in a financial institution acceptable to the City. The City shall have an unrestricted right to draw on the account to ensure the Grantee's faithful performance of the Franchise in accordance with applicable law, or if Grantee fails to perform any of its obligations under this Franchise. Additionally, the City shall have the right to withdraw all funds from the account and hold the funds in escrow after termination of the Franchise:

- (1) if the City has filed a lawsuit;
- (2) if the City has sought to withdraw funds from the account prior to termination and Grantee has filed a lawsuit to contest the action or to appeal the notice and order; or
- (3) if the Grantee has filed a lawsuit to challenge or appeal the withdrawal.

SECTION 13. GENERAL USE OF AND CONSTRUCTION IN RIGHT OF WAY

13.1 Relationship with Other Laws.

Construction work and maintenance of any and all Facilities within the City's Rights of Way shall be done in accordance with the Seattle Municipal Code, including, but not limited to, SMC Title 11, SMC Title 15, and SMC Ch. 21.60; City of Seattle Standard Specifications for Road, Bridge and Municipal Construction; City of Seattle Standard Plans for Municipal Construction; City of Seattle Traffic Control Manual for In-Street Work; Seattle Street and Sidewalk Pavement Opening and Restoration Rules (Director's Rule 94-8); any other applicable ordinance, rule or policy, and any amendments thereto. The provisions of Section 13 are meant to be supplemental to the above provisions. In the event of a conflict between the above provisions and this Franchise, the above provisions shall prevail.

13.2 Construction.

(A) All construction and maintenance of any and all Facilities within the City's Rights of Way incident to Grantee's Cable System shall be and remain the Grantee's responsibility regardless of who performs the construction. Grantee shall apply for and obtain all permits necessary for construction or installation of any Facilities, and for excavating and laying any Facilities, within the City's Rights of Way. Grantee shall pay all applicable fees upon issuance of the requisite construction permits by the City to Grantee, and shall pay all inspection fees and other costs incurred by the City as a result of work authorized by such permit.

(B) Before beginning any construction, Grantee shall provide the City with a construction schedule for work in the City's Rights of Way. As Grantee's construction of Facilities in the City's Rights of Way is completed or its location subsequently altered during the term of the Franchise, Grantee shall periodically provide the City Cable Office with maps showing the location of the installed Facility in the City's Rights of Way, as built.

(C) Before beginning any work in the City's Rights of Way, Grantee shall apply for and obtain appropriate permits from the City, and give appropriate notices to any other franchisees, licensees or permittees of the City, or other units of government owning or maintaining pipes, wires, conduits or other facilities which may be affected by the proposed excavation.

(D) When Facilities pass over or under private or publicly owned property it shall be Grantee's sole responsibility to obtain all necessary permission from the owner thereof before commencing work, and to notify all utility companies and property owners who may be subject to damage or inconvenience during such work.

13.3 Relocation.

The City shall have the right to require Grantee to change the design or location of any of Grantee's Cable System within the City's Rights of Way when the public convenience or public interest would be served by such a change, and the expense thereof shall be paid by Grantee. Should Grantee fail to remove or relocate or redesign any such Facilities by the date reasonably established by the City, the City may effect such removal or relocation or redesign, and the

expense thereof shall be paid by Grantee, including all costs and expenses incurred by the City due to Grantee's delay. If the City requires Grantee to relocate its Facilities located within the City's Rights of Way, the City shall provide Grantee with an alternate location within the City's Rights of Way. Nothing herein shall prevent Grantee from participating in any alternative funding for relocation.

13.4 Restoration of City's Rights of Way.

Whenever Grantee disturbs the surface of any Right of Way for any purpose, the City shall be responsible for restoration of the City's Right of Way and its surface within the area affected by the excavation unless the City authorizes the Grantee in the street use permit to perform such restoration work. The cost of all restoration work, including the cost of inspection and supervision shall be paid by the Grantee. All excavations made by Grantee in the City's Rights of Way shall be properly safeguarded for the prevention of accidents.

13.5 Maintenance and Workmanship.

(A) Grantee's Cable System shall be constructed and maintained so as not to interfere with sewers, water pipes, conduits or any other property of the City, or with any other pipes, wires, conduits, structures or other facilities that may have been laid in the City's Rights of Way by or under the City's authority.

(B) Grantee shall operate its Cable System so as to prevent injury to the City's property or property belonging to any Person within the City. Grantee, at its own expense, shall repair, renew, change and improve its Facilities from time to time as may be necessary to accomplish this purpose.

(C) Grantee shall not construct its Cable System in any manner that requires any Subscriber to install any cable, wire, conduits or other facilities, under or over a Right of Way.

13.6 Acquisition of Facilities.

Upon Grantee's acquisition of Facilities in any City Right of Way, or upon the addition or annexation to the City of any area in which Grantee owns or operates any Facility in any City Rights of Way, the Grantee shall, at the City's request, submit to the City a statement and as-built plans describing all existing Facilities, whether authorized by franchise, permit, license or other prior right, and depicting the location of all such Facilities with such specificity as the City may reasonably require. Such Facilities shall immediately be subject to the terms of this Franchise, and shall be brought into compliance with it as soon as practicable. In the event the new Facilities or annexed area have characteristics that make literal application of any term of the Franchise inappropriate, the parties will negotiate in good faith to modify the Franchise solely with respect to such characteristics and only to the extent necessary to achieve consistency with the purposes of this Franchise.

13.7 Reservation of City Right of Way Rights.

Nothing in this Franchise shall prevent the City from constructing, maintaining, or repairing any City Right of Way, or public work or improvement in the City's Rights of Way. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System. However, if any of the Grantee's system will interfere with the construction, maintenance, or repair of any City Right of Way or public work or improvement in the City's Rights of Way, at its own expense the Grantee shall remove or relocate its system as the City directs. Should the Grantee fail to remove, adjust or relocate its Facilities by the date established by the City Engineer's written notice to Grantee, the City may effect such removal, adjustment or relocation and recover the cost thereof from the Grantee, including all costs and expenses incurred by the City due to Grantee's delay.

13.8 Reservation of Rights and Privileges.

Nothing in this Franchise shall deprive the City of any rights or privileges which it now has, or which may hereafter be conferred upon it, including any rights to exercise its police powers in the regulation and control the use of the Rights of Way.

13.9 Street Vacation.

If any street or portion thereof used by Grantee is vacated by the City during the term of this Franchise, unless the City Council specifically reserves to Grantee the right to continue its installation in the vacated street, Grantee shall, without delay or expense to the City, remove its Facilities from such street and the expense thereof shall be paid by Grantee.

13.10 Discontinuing Use of Facilities.

Whenever Grantee intends to discontinue using any Facility or capacity within the City's Rights of Way, Grantee shall submit for the approval of the authorizing City department a complete description of the Facility and the date on which the Grantee intends to discontinue using the Facility or capacity. Grantee may remove the Facility or request that the City permit it to remain in place. Notwithstanding the Grantee's request that any such Facility remain in place, the City may require the Grantee to remove the Facility from the City's Right of Way or modify or maintain the Facility or capacity to protect the public health and safety or otherwise serve the public interest. The City may require the Grantee to perform a combination of modification, maintenance, and/or removal of the Facility and/or capacity. Grantee shall complete such removal or modification in accordance with a schedule set by the City. Until such time as Grantee removes or modifies the Facility as directed by the City, or until the rights to and responsibility for the Facility are accepted by another Person having authority to construct and maintain such Facility, Grantee shall be responsible for all necessary repairs and relocations of the Facility, as well as maintenance of the City's Right of Way, in the same manner and degree as if the Facility were in active use, and Grantee shall retain all liability for such Facility.

13.11 Hazardous Substances.

(A) Grantee shall comply with all applicable state and federal laws, statutes, regulations and orders concerning hazardous Substances relating to Grantee's Cable System in the City's Rights of Way. For purposes of Subsection 13.11, "Hazardous Substances" shall be all substances so characterized in RCW 70.105D.020(7).

(B) Grantee shall maintain and inspect its Facilities located in the City's Rights of Way and immediately inform the City of any release of Hazardous Substances. Upon reasonable notice to Grantee, the City may inspect Grantee's Facilities in the City's Rights of Way to determine if any release of Hazardous Substances has occurred, or may occur, from or related to Grantee's Facilities. In removing or modifying Grantee's Facilities as provided in this Franchise, Grantee shall also remove all residue of Hazardous Substances related thereto; provided, however, if it is determined that Grantee's owned Facilities did not cause the release of hazardous substances, Grantee shall have no duty to remove such substances.

(C) Grantee agrees to forever indemnify the City against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by the City arising out of a release of Hazardous Substances arising from, connected to or incident to Grantee's Facilities in the City's Rights of Way.

13.12 Undergrounding of Cable.

Grantee is strongly encouraged to locate and construct its present and future cables and other Facilities underground. Grantee shall install its cables or other Facilities underground wherever and at the same time existing utilities in the immediate vicinity are installed underground, where all utilities are placed underground, or where statute or ordinance requires utilities to be placed underground. Previously installed aerial cable shall be undergrounded in concert, and on a reasonable cost-sharing basis, with other utilities pursuant to the general ordinances of the City or applicable state law, or in the event that a telecommunications utility or a public utility decides to underground its facilities on a voluntary basis, unless the City grants an exception.

13.13 Construction Codes.

Grantee shall strictly adhere to all building and zoning codes currently or hereafter in effect. Grantee shall arrange its lines, cables, and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference with the use of said public or private property by any Person. In the event of such interference, the City may require the removal or relocation of the Grantee's lines, cables, and other appurtenances from the property in question at Grantee's expense.

13.14 Construction and Use of Poles.

Grantee shall negotiate and enter into pole attachment agreements with utilities maintaining poles in the Grantee's Franchise Area on terms acceptable to Grantee and the affected utilities and in compliance with SMC 15.32; provided, any obligations to provide fiber or capacity that might be imposed on Grantee under SMC 15.32 and any amendments thereto, shall be deemed fully satisfied for the term of this Franchise and any extensions by Grantee's agreement to install, at the time of Grantee's own construction, fiber for the City in accordance with the following provisions:

(A) In the course of Grantee's own construction of its optical fiber system Grantee shall include at the City's request additional fiber for the City's exclusive use for governmental purposes. Such purposes shall not include any lease, license, or other transfer to any third party of the right to use such fiber and shall not include any commercial use. However,

such purposes may include the following uses, for which the City may receive payment to defray its costs of installation and maintenance:

(1) The City may share use of the fiber with other governments for governmental purposes where signals are mixed with City signals in the same transmission system; and

(2) The City may make fibers available to Schools as distinctly leased fibers or as part of a shared transmission system as described above.

(B) The City shall bear the incremental cost of adding the additional fiber during Grantee's construction and the incremental cost, if any, of maintenance.

SECTION 14. TRANSFER OF GRANTEE'S CABLE SYSTEM

14.1 Prior Consent of City.

(A) Transfer Defined. For purposes of Sections 14 and 15, "Transfer" shall mean any form of sale, conveyance, mortgage, assignment, merger, pledge, encumbrance, deed or grant, lease (not including lease of channels or fiber capacity), and whether voluntary or involuntary.

(B) City Approval of Transfer.

(1) Neither this Franchise nor any substantial property owned and operated by Grantee by authority of this Franchise shall be Transferred without the prior written consent of the City. The City's granting of consent in one instance shall not affect the requirement of consent in any other instance. Within ten (10) days after execution and delivery of any instrument so consented to by the City, Grantee shall file with the City an executed counterpart or certified copy thereof. For purposes of this subsection, "substantial property" means any property the Transfer of which would substantially affect Grantee's performance of its obligations under this Franchise.

(2) In determining whether the City will consent to any Transfer, the City may inquire into the qualifications of the prospective party. Grantee shall assist the City in any such inquiry. Without restricting any rights the City may have under federal law to impose conditions upon a Transfer of all or part of this Franchise, the City may condition any Transfer upon such conditions as it reasonably deems appropriate to enable the City to enforce this Franchise and to assure continued performance pursuant to the terms of this Franchise.

(3) No consent shall be required, however, for (i) a Transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a Transfer to an entity directly or indirectly owned or controlled by Grantee.

(4) In no event shall a Transfer be approved without the transferee becoming a signatory to this Franchise and assuming all rights and obligations thereunder, and assuming all other rights and obligations of the transferor to the City, including, but not limited to, any adequate guarantees or other security instruments required by the City in form and substance acceptable to the City Attorney as set forth in Attachment A of the Franchise.

14.2 Change in Control. Grantee shall promptly notify the City of any proposed Transfer or acquisition by any other party resulting in a change of control of the Grantee or Guarantor of performance. Such change in control shall make this Franchise subject to revocation unless and until the City shall have consented thereto.

SECTION 15. CITY RIGHT TO PURCHASE

15.1 Purchase of Grantee's Cable System After Termination or Expiration.

(A) Subject to the requirements of federal law, if the City has terminated this Franchise for cause as provided in Section 19, or if the initial term of this Franchise has expired without the Franchise being renewed or extended by application of 47 USC §546, and if the City has so ordered by ordinance, the Grantee shall continue its operations for a period of up to two hundred seventy (270) additional days. During this period, the Grantee shall not Transfer any portion of its Cable System to any other Person, including parts of the Cable System rented, leased or leased-purchased from others by the Grantee, without the prior consent of the City.

(B) Within ninety (90) days of the effective date of termination, the Grantee shall submit a report (hereafter referred to as the "System Report") to the City setting out Grantee's assessment of the book value of the assets of Grantee's Cable System and their fair market value and the methodology, assumptions and limiting conditions underlying the Grantee's appraisal. In addition, Grantee shall provide such further information regarding its technical and customer operations, contractual or other legal obligations, and financial history and current condition as the City may request.

(C) At any time within sixty (60) days after receiving the System Report, the City may notify the Grantee that it desires to acquire by purchase all or a portion of Grantee's Cable System in the City.

(D) For purposes of Subsection 15.1, the price of Grantee's Cable System shall be the fair market value, less any offsets, as determined by mutual agreement between the City and the Grantee. If the City and Grantee are unable to agree within one hundred twenty (120) days after the City gives notice of desire to purchase under Subsection 15.1(C), then the City may demand that such price and/or any offsets the City may claim be determined by arbitration, as provided for in Subsection 21.2, in which case, following the arbitrator's determination, the City shall have the option to purchase the Cable System for the price determined by the arbitrator. In the case of the expiration of the Franchise without

renewal, fair market value shall be reduced by the amount of any lien, encumbrance, or other obligation of the Grantee which the City may assume.

(E) For purposes of Subsection 15.1, book value shall mean the fully depreciated assets of the Grantee.

(F) In the event of the City's acquisition of all of Grantee's Cable System, as provided in Subsection 15.1, Grantee shall consent to assignment of any rental, lease, and lease-purchase arrangements for Grantee's Cable System or any Facilities and shall use all best efforts to obtain consent to assignment, to the extent any existing and future rental, lease, and lease-purchase arrangements for Grantee's Cable System or any Facilities require such consent, and shall cause any entity it controls to so consent.

SECTION 16. REGULATION OF RATES AND CHARGES

16.1 City Regulation.

To the extent consistent with state and federal law, Grantee's rates and charges shall be subject to City regulation and approval.

16.2 Filing of Rates and Charges.

(A) Throughout the term of this Franchise, Grantee shall maintain on file with the City a complete and current schedule of all rates and charges related to providing Cable Services under this Franchise, in a form satisfactory to the City.

(B) Grantee shall provide a complete schedule of rates and charges for any and all Leased Access Channels, or portions of such Channels, provided by Grantee. The schedule shall include a description of the price, terms and conditions established by Grantee for Leased Access Channels. Upon the City's request, Grantee shall furnish additional detail or explanation in writing.

16.3 Changes in Rates and Charges.

(A) Grantee shall provide written notice to the City and Subscribers at least thirty (30) days in advance of any proposed changes in rates and charges.

(B) Grantee shall be entitled to increase regulated rates only as provided in this Franchise. Grantee and the City shall follow the process for establishing increases in rates and charges set forth in the City's Cable Communications Ordinance, SMC Ch. 21.60, as now constituted or hereafter amended. Grantee shall provide all information reasonably requested by the City.

16.4 Reasonable Discounts Provided.

Grantee shall provide reasonable discounts of not less than ten percent (10%) on Basic Service rates, installation, and equipment rental charges, if necessary to receive Basic Service, at a minimum, to Subscribers with low incomes as qualified in the City's Rate 26, 27 program or living in low-income subsidized housing. This subsection shall not prohibit Grantee from providing a larger discount or offering the discount to other economically or physically challenged Subscribers.

16.5 Multiple Dwelling Unit Buildings.

Grantee shall ensure that rates charged by Grantee to residents of multiple Dwelling Unit buildings shall not exceed the charges paid by residents of single family homes. Grantee may not condition provision of services to multiple Dwelling Unit buildings on any requirement not imposed on other Subscribers, except as expressly provided in this Franchise. Grantee may not condition provision of services to multiple Dwelling Unit buildings on an exclusive use agreement with Grantee. Grantee may offer a building owner the option of a long term agreement in return for installation of internal wiring or other telecommunications improvements unique to the building, but Grantee must offer the alternative of a no term agreement to building owners who wish to contract directly for installation by a contractor approved by Grantee and in accordance with Grantee's generally applicable technical standards.

16.6 Regulation of Equipment for Hearing Impaired.

To the extent authorized by law, the City reserves the right to require and regulate the installation or rental of equipment which facilitates the reception of Basic Service by hearing impaired individuals.

16.7 Downgrade Charges.

(A) Grantee may impose Downgrade Charges only if the Subscriber has been notified, at the time of initiating Cable Services, and annually thereafter, of Grantee's Downgrade Charges.

(B) Affected Subscribers shall have thirty (30) days after a retiering or increase in rates to downgrade their Cable Service without charge.

16.8 Reserved City Authority.

Subject to Subsection 16.1, the City reserves all regulatory authority arising from the Cable Television Consumer Protection and Competition Act of 1992, as now in effect or hereafter amended.

SECTION 17. RECORDS AND REPORTS

17.1 Open Records.

Grantee shall maintain Records of its operations that are open and accessible to the City. The City shall have the ability to inspect such Records of the Grantee as are reasonably necessary to monitor compliance with the Franchise at a location in the City during Normal Business Hours and upon reasonable notice. Such notice shall specifically reference the section of the Franchise which is under review, so that the Grantee may organize the necessary books and records for easy access by the City. Such notice shall not apply to the Public Records File required by the FCC. If any such Records are under the control of an Affiliated Entity or a third party or are stored in a computer, Grantee shall promptly take steps to secure access to such records as are reasonably necessary for the City's inspection. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, Grantee may, at its sole option, choose to pay the reasonable travel costs of the City's representative to view the books and records at the appropriate location.

17.2 Annual Reports.

Grantee shall annually present a written report to the City (the "Annual Report"). Grantee shall submit the Annual Report no later than one hundred twenty (120) days after the close of its fiscal year. The Annual Report shall include information for the Grantee's operations within the City for the immediately preceding year, including, but not limited to:

- (A) System structural and operating information;
- (B) Changes, additions or deletions made in the Cable System since the last Annual Report. Complete and accurate system maps, which shall include but not be limited to detail of trunks, distribution lines, and nodes, as described in Subsection 13.2 (B), shall be available at Grantee's offices for City review. In addition, the City may request a copy of Grantee's Cable System route maps annually or as needed to update the City's maps;
- (C) System ownership, including all levels of Affiliated and Parent Corporations and controlling ownership percentages;
- (D) An organization chart for Grantee, listing its officers, directors, department heads, and supervisors for major activity centers by category including names, positions, and business addresses;
- (E) Cable Services provided on Grantee's Cable System, including services begun or dropped during the previous year;
- (F) A schedule of all Grantee's rates and charges with notations of changes occurring during the year and the dates of such changes;
- (G) For Grantee's Cable System in the City: (a) miles of system plant; (b) homes passed; (c) numbers of Basic Service, expanded basic service, and digital Subscribers; and (d) number of pay television units;

(H) A statistical summary of telephone responsiveness, identifying on a monthly average basis the percent of time the telephone system has all trunks busy, the number of callers to Grantee's Subscriber service or repair lines who fail to reach a Subscriber service representative in less than thirty (30) seconds, and providing any other information the City reasonably deems necessary to determine if Grantee has met the performance standards of Section 10;

(I) A summary of all Cable System outages in a form acceptable to the City. An outage includes a loss of one or more video or audio Channels, but does not include instances where the sound or video is lost prior to its receipt by the Cable System;

(J) The current complaint procedures followed by the Grantee and the total number of Subscribers in the Franchise Area who received service credits from Grantee, sorted by reason code;

(K) Annual proof-of-performance tests, showing performance of the Cable System with respect to applicable FCC technical standards and certification that all tests required by the FCC have been completed;

(L) Copies of current form contracts between Subscribers and the Grantee;

(M) Grantee's development or incorporation of new technology on Grantee's Cable System, such as addressability, interactivity, pay-per-event Programming, teletext, data communications or other entertainment and non-entertainment Cable Services;

(N) A general summary of requests and usage patterns for Leased Access Channels, if any;

(O) A description of the progress made in construction and completion of any Cable System Rebuild or Upgrade;

(P) A list of all petitions, applications, communications, and reports having a direct and material effect on the Cable System, submitted by the Grantee and its Parent Corporations to the FCC, the Securities and Exchange Commission or any other federal or state regulatory agency. Grantee shall make copies of any such Documents and any related communications with the respective agencies available to the City upon request;

(Q) A copy of its equal employment opportunity plan and Form 396C or other applicable EEO form filed with or submitted to the FCC; and

(R) Financial information as follows:

(1) Financial statements for Grantee's Seattle Area Cable System and, separately, for its Cable System within the City, prepared in accordance with generally accepted accounting principles. For purposes of this subsection, "Seattle Area

Cable System" means the regional Cable System of which Grantee's Cable System serving the Franchise Area is a part;

(2) Such other information as the City may reasonably request;

(3) Planned construction, Upgrade or Rebuild activity of Grantee's Cable System within the City for the current year and the projected costs of such activity;

(4) Grantee's (or ultimate Parent Corporation's) annual corporate report, including their audited financial statements; and

(5) Statement describing joint ventures or partnerships in which the Grantee owns at least a five percent (5%) interest.

17.3 Public Hearing.

If directed by the City, the non-confidential and non-proprietary portions of Grantee's Annual Report shall be presented at a public hearing at which Grantee shall summarize the contents of the Annual Report and members of the general public may comment thereon.

17.4 Reports of Regulatory Violations.

Grantee shall provide copies to the City of any report, order, consent decree, or other formal determination of any regulatory agency having jurisdiction over Grantee pertaining to any alleged violation by Grantee of any applicable rule or law of the agency regarding the Grantee's provision of Cable Services under this Franchise.

17.5 Reports on Digital Conversion.

Upon request, Grantee shall provide reports to the City on its plans and progress for digital conversion, including the number of Channels to be converted, date, required equipment changes, formats to be used and other information reasonably necessary for the City to be able to plan an appropriate and potentially concurrent conversion of PEG Channels and facilities to standard digital or HDTV format.

17.6 Public Records.

(A) Grantee acknowledges that information submitted to the City is subject to the Washington Public Disclosure Law and is open to public inspection.

(B) Grantee may identify information that the Grantee believes is non-disclosable, such as trade secrets, submitted to the City as confidential. Grantee shall prominently mark any information for which it claims confidentiality with the mark "Confidential", in letters at least one-half (1/2) inch in height, prior to submitting such information to the City. The City shall treat any information so marked as confidential except as provided below. If the City receives a request for confidential information, the City shall provide the Grantee with written notice of the request, including a copy of the request. Grantee shall have five (5) working days within which to provide a written response to the City, before the City may disclose any of the requested confidential information. The City shall

retain the right to determine whether it is required to release the requested confidential information under applicable law. If, after considering Grantee's written response, the City determines that it is required to release all portions of the requested information, the City shall provide the Grantee notice to that effect a minimum of five (5) business days prior to releasing the requested information.

SECTION 18. EQUAL EMPLOYMENT OPPORTUNITY AND OUTREACH

18.1 Non-Discrimination and Affirmative Efforts.

During the performance of this Franchise, the Grantee agrees as follows:

(A) Grantee shall not discriminate against any employee or applicant for employment because of race, religion, creed, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. Grantee will make affirmative efforts to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap. Such efforts shall include, but are not limited to, the following: employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising, layoff or termination rates of pay or other forms of compensation, and selection for training, including apprenticeship. Grantee shall post in conspicuous places, available to employees and applicants for employment, notices as provided by the City setting forth the provisions of this non-discrimination clause.

(B) Grantee shall furnish to the Director of Executive Administration (or his/her designee), upon request and on such form as may be provided therefor, a report of the affirmative efforts taken by Grantee in implementing the requirements of this section, and subject to the privacy requirements of applicable federal, state and local law, will permit access to Grantee's records of employment, employment advertisements, application forms, other pertinent data and records requested by the Director of Executive Administration for the purposes of investigation or review to determine compliance with the requirements of this section.

(C) The Grantee shall substitute the name of the subcontractor wherever the word "Grantee" appears in provisions Subsections 18.1(A) and (B) and insert these revised provisions in all subcontracts for work covered by this Franchise.

(D) By acceptance of this Franchise, Grantee is affirming that it complies with all applicable federal, state, and local non-discrimination laws, including, but not limited to SMC Chapters 14.04, 14.10, 20.42 and 20.45.

18.2 Affirmative Efforts to Use Women and Minority Business Enterprises ("WMBE").

(A) Grantee shall use affirmative efforts to promote and encourage participation by women and minority businesses on subcontracting opportunities that arise in connection with this Franchise. Grantee agrees to make such efforts as a condition of the Franchise.

(B) Outreach efforts may include the use of solicitation lists, advertisements in publications directed to minority communities, breaking down total requirements into smaller tasks or quantities where economically feasible, making other useful schedule or requirements modifications that are likely to assist small or WMBE businesses to compete, targeted recruitment efforts, and using the services of available minority community and public organizations to perform outreach.

(C) Record-Keeping: Grantee shall maintain, for at least twenty-four (24) months after the expiration or earlier termination of this Franchise, relevant records and information necessary to document all Grantee's solicitations to subcontractors and suppliers, all subcontractor and supplier proposals received, and all subcontractor and suppliers actually utilized in meeting Grantee's Franchise obligations. The City shall have the right to inspect and copy such records.

(D) Grantee shall ensure that all employees, particularly supervisors, are aware of, and adhere to their obligation to maintain a working environment free from discriminatory conduct, including, but not limited to, harassment and intimidation of women or minority businesses.

(E) Non-Discrimination: Grantee shall not create barriers to open and fair opportunities for WMBEs to participate in any City contract and to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services.

SECTION 19. REMEDIES FOR NON-COMPLIANCE

19.1 Termination.

(A) In the event of a material breach of this Franchise by the Grantee, the City may, without limitation, exercise all rights and remedies provided for herein or otherwise available under the law, including termination of the Franchise. Without limitation, the following shall constitute material breaches of this Franchise:

- (1) The Grantee's failure or refusal to pay any required financial support for PEG Access;
- (2) Any failure by Grantee to provide required Channel capacity;
- (3) Any failure by the Grantee reasonably within its control to adhere to required schedules and any extensions for construction and extension or completion of any Rebuild or Upgrade of its Cable System, the installation and maintenance of PEG Access requirements, Interconnection or other related similar requirements;
- (4) Failure to comply with Subsection 5.4 (Ascertainment Process);
- (5) Failure of the Grantee to implement any technical upgrades ordered after full review pursuant to Subsections 20 and 21;
- (6) Failure to indemnify the City and hold it harmless as required by Section 12;
- (7) For a pattern or practice of material violation of any technical, construction or maintenance standards of this Franchise;
- (8) Failure to restore Cable Services after an outage (including, but not limited to, loss of reception of sound or video or interactive television) resulting from Cable Operator equipment failure from an event within Grantee's control in all or a major part of any cable district for a period of ten (10) consecutive days or for a period of twenty-four (24) consecutive hours on thirty (30) or more occasions during any period of twelve (12) consecutive calendar months;
- (9) Grantee's failure, refusal or neglect to pay the City all amounts due under this Franchise and all other applicable laws or regulations in accordance with the terms of the Franchise;
- (10) Any material misrepresentation by Grantee in its performance of its obligations or in connection with the granting of this Franchise; and
- (11) Any failure to comply with Section 18 (Equal Employment Opportunity and Outreach) or with SMC Ch. 14.04, SMC Ch. 14.10, SMC Ch. 20.42, SMC Ch. 20.45, or other local, state or federal non-discrimination laws.

(B) In the event the City intends to terminate this Franchise pursuant to the previous subsection, the City shall provide a written notice to cure, identifying the nature of the breach with reasonable specificity, and advising Grantee of the City's intent to terminate the Franchise. All further actions shall conform to the following procedures:

(1) Grantee shall, within thirty (30) days after receipt of such notice or such longer period of time as the City may specify in such notice: (a) cure such alleged failure; or (b) in a written response to the City, either present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

(2) The City shall determine: (a) whether a failure to comply with a material provision has occurred; (b) whether such failure is excusable; and (c) whether such failure has been cured or will be cured by the Grantee. The Grantee shall make available to the City, if requested, any records, documents or other information necessary to make the determination.

(3) If the City determines that a failure to comply with a material provision has occurred and that such failure is not excusable and has not been or will not be cured by the Grantee in a manner and in accordance with a schedule reasonably satisfactory to the City, then the City shall so notify the City Council in a written report which may recommend action to be taken by the City Council. The City shall provide notice and a copy of such report to the Grantee. In the event that the City determines that such failure has not occurred, or that such failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to the City, or that such failure is excusable, such determination shall conclude the investigation.

(4) Any termination of this Franchise shall be by ordinance passed by the City Council; provided, however, before any such ordinance is passed, the Grantee must be given at least forty-five (45) days advance written notice, which notice shall set forth the causes and reasons for the proposed termination and cancellation, shall advise the Grantee that it will be provided an opportunity to be heard by the City Council regarding such proposed action before any such action is taken, and shall set forth the time, date, and place of the hearing. In no event shall such hearing be held less than forty-five (45) days following delivery of such notice to the Grantee. At the hearing, Grantee shall be entitled to all the rights of due process consistent with the City procedures, including, but not limited to, the right to present evidence and the right to be represented by counsel.

(C) The enumeration of material Franchise provisions set forth in this section is not exhaustive and shall not be invoked under any guideline for contract interpretation to narrow the scope of other material terms, violation of which would be a material breach of this Franchise.

19.2 Liquidated Damages.

(A) Amounts of Liquidated Damages. Because Grantee's failure to comply with provisions of the Franchise will result in injury to the City in amounts that will be difficult to quantify with reasonable certainty, the City and Grantee agree to the following Liquidated Damages for the following violations. These damages represent the parties' best estimate of the damages resulting from the specified injury. The Liquidated Damage amounts are in 2006 dollars and shall be increased each year by the increase in the U.S. Consumer Price Index.

- (1) For any Transfer subject to the provisions of Section 14 without prior City approval: three hundred dollars (\$300) per day for each day the violation continues;
- (2) For failure to comply with non-monetary requirements for PEG Access and use of the Cable System: seventy-five cents (\$0.75) per Subscriber for each month the violation continues, but not to exceed fifteen thousand dollars (\$15,000) per month;
- (3) For violation of applicable Subscriber service standards:
 - (a) For standards requiring a percentage performance: fifteen hundred dollars (\$1,500) per quarter for each percentage point below the required performance;
 - (b) For failure to maintain required Subscriber Service Centers: one dollar and fifty cents (\$1.50) per Subscriber per month, but not to exceed seventy-five hundred dollars (\$7,500) per month;
 - (c) For other violations: three hundred dollars (\$300) per occurrence;
- (4) For violation of any material technical performance standards: seven hundred fifty dollars (\$750) per occurrence; and
- (5) For all other material violations: seven hundred fifty dollars (\$750) per occurrence.

(B) Procedure for Imposing Liquidated Damages.

- (1) Whenever the City believes that the Grantee has violated one or more terms, conditions or provisions of this Franchise, and Liquidated Damages will be sought, a written notice shall be given to the Grantee informing it of such alleged violation or liability. The written notice shall describe in reasonable detail the

specific violation so as to afford the Grantee an opportunity to remedy the violation. The Grantee shall have thirty (30) days subsequent to receipt of the notice in which to correct the violation before the City may impose Liquidated Damages, unless the violation is of such a nature so as to require more than thirty (30) days and the Grantee proceeds diligently within the thirty (30) days to correct the violation.

(2) The Grantee may, within ten (10) days of receipt of notice, notify the City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by the Grantee to the City shall specify with particularity the matters disputed by the Grantee. The dispute shall then be resolved pursuant to Subsection 21.2.

(C) Effect on Duty to Comply. The collection of Liquidated Damages by the City shall in no respect affect:

(1) Compensation owed to Subscribers; or

(2) The Grantee's obligation to comply with the provisions of this Franchise or applicable law.

(D) Accrual. Liquidated Damages accrue from the date the City notifies the Grantee that there has been a violation.

19.3 Relationship of Remedies.

(A) Non-Exclusivity of Remedies. Subject to applicable law, the remedies provided for in this Franchise and the Cable Communications Ordinance, as amended, are cumulative and not exclusive; the exercise of one remedy shall not prevent the exercise of another remedy, or the exercise of any rights of the City at law or equity.

(B) No Election of Remedies. Without limitation, the withdrawal of amounts from the security fund (*see* Subsection 12.4), or the recovery of amounts under the insurance, indemnity, bonding or Liquidated Damages provisions of this Franchise shall not be construed as a limit on the liability of the Grantee under the Franchise or an excuse of faithful performance of any obligation of the Grantee.

19.4 Non-Waiver.

Grantee shall not be relieved of its obligations to comply, promptly and completely, with any provision of the Franchise by reason of any failure of the City to promptly enforce compliance with this Franchise, nor does the City waive or limit any of its rights under this Franchise by reason of such failure or neglect.

19.5 Cost Treatment of Fines, Liquidated Damages, Damages.

No cost to Grantee arising from a breach or violation of the Franchise shall be recovered from Subscribers, shall form the basis for any adjustment to Subscriber rates or other Subscriber

charges or shall be offset against any sums due the City as a tax, Franchise Fee or otherwise regardless of whether the combination of Franchise Fees and said costs exceeds five percent (5%) of Grantee's Gross Revenues in any twelve (12) month period.

SECTION 20. REOPENERS

20.1 Grounds.

The occurrence of any of the following shall be grounds for the City or the Grantee to reopen the Franchise as further provided in this section:

- (A) Any event that gives rise to a right to terminate the Franchise under any other provision, to be exercised only by the City.
- (B) Any court or quasi-judicial action that invalidates or substantially negates the effect of any material provision of this Franchise.
- (C) Any state or federal legislation that invalidates or substantially negates the effect of any material provision of this Franchise.
- (D) Any proposed or actual use of the Cable System by Grantee that is not expressly provided for in this Franchise and that invalidates or substantially negates the effect of any material provision of this Franchise.
- (E) Any required upgrade or digitization of a substantial portion of the Cable System where the Grantee asserts, and carries the burden of establishing, that the required upgrade, digitization or implementation is not technically or commercially feasible.
- (F) Any ascertainment of present or future cable related community needs and interests that results in a determination that specific provisions of this Franchise no longer reflect such community needs and interests.
- (G) Any change in the competitive environment for Cable Services provided by the Grantee whereby Grantee's compliance with the terms of this Franchise would place it at an unfair competitive disadvantage with other providers of equivalent services, in which case the standards of Subsection 1.4 shall apply.

20.2 Reopener Procedure.

- (A) The City or the Grantee shall make a determination that grounds exist to implement the reopener provisions of this section and shall formally notify the other party in writing and in reasonable detail of that determination, the grounds for it, and the proposed modification deemed necessary to address the event giving rise to the reopener; provided, however, if the grounds asserted are within those described in Subsection 20.1(E), the City shall first schedule a public hearing, with adequate notice to the public and the Grantee, to address the benefits, expense, and potential costs to Subscribers, of implementing such modifications.

(B) For a period of ninety (90) days following Grantee's receipt of the notice, Grantee and the City shall seek to negotiate an amendment to the Franchise reflecting the grounds identified in notice of reopener in light of the cable related community needs and interests and the cost of meeting those needs and interests.

(C) If Grantee and the City are unable to reach agreement within the ninety (90) day period, the matter shall be submitted to arbitration, using the arbitration procedure set forth in Subsection 21.2.

20.3 Criteria Governing Arbitration Decision.

(A) The arbitrators shall decide whether either party has established a right to a modification of the Franchise based upon the grounds identified in the reopener notice and in light of the evidence presented to them and applicable legal authority, including without limitation any legal review conducted pursuant to Subsection 21.2 and, if so, shall prescribe the modification.

(B) The arbitrators shall make the determination of whether a right to a modification exists, and the nature of any such modification, based on the following criteria:

(1) Whether the particular modification is needed to meet the present and future cable-related community needs and interests, taking into account the cost of meeting those needs and interests during the term of this Franchise and any proposed extension; provided, in the case of an arbitration involving an Upgrade pursuant to Subsection 7.5(A)(1), the arbitrator shall be limited to determining whether the requirement of Subsection 7.5(A)(1) has been met by the City.

(2) Whether the particular modification is within the lawful power of the City.

(3) Whether the party having the burden of proof has met its burden.

SECTION 21. MISCELLANEOUS PROVISIONS

21.1 Compliance with Laws.

(A) Subject to Subsection 1.5, Grantee shall comply with all applicable federal and state laws and City ordinances, resolutions, rules and regulations adopted or established pursuant to the City's lawful authority and other agreements or contracts entered into with the City that specifically make such agreements or contracts subject to the enforcement provisions of this Franchise.

(B) Nothing in this Franchise is intended to authorize the Grantee to engage in any activity that violates the law.

21.2 Arbitration.

(A) All disputes relating to the interpretation, application, violation or enforcement of this Franchise shall be arbitrated as provided in this Subsection 21.2 except as provided below:

(1) To the extent that any dispute otherwise arbitrable involves the interpretation or application of state or federal laws that govern the rights and obligations of the parties under this Franchise, such interpretation or application of federal or state law shall not be subject to arbitration, but shall be resolved judicially. This exception shall not extend to the application of the common law to legal issues arising in the arbitration, or to the application of statutes that generally affect the interpretation of contracts.

(2) In the event that any material provision of the Franchise is determined to be invalid or unenforceable, or a reopener gives rise to a renegotiation of the Franchise, and the parties are unable to agree upon appropriate modifications of the Franchise, the Franchise shall be modified by arbitration in accordance with this Subsection 21.2; provided, however, to the extent either party establishes probable inconsistency between a proposed modification and federal or state law governing this Franchise, excluding common law or statutes governing contracts generally, the arbitration proceeding shall be stayed upon the request of either party made in a proceeding filed in federal court. In any event, either party shall have the right to seek judicial resolution of issues within Subsection 21.2(A)(1) either before or after any arbitration proceeding.

(3) In order to minimize the likelihood of a dispute regarding the arbitrability of specific questions under the previous subsections, the parties agree, by way of example and not limitation, that the following issues of law are not subject to arbitration, but shall be resolved judicially at the instance of either party: (a) preemption under federal or state law and the interpretation and application of any federal or state laws that are determined to have preemptive effect; (b) the application of any federal or state law that governs the parties' relationship independently of the Franchise agreement; (c) injunctive relief.

(B) Without limiting the generality of the arbitration provision, and subject to the exceptions stated above, the parties agree that disputes arising under the following provisions of the Franchise shall be arbitrable and the determination of the arbitrators shall be final and binding upon both the City and the Grantee, except to the extent legal review is permitted hereunder: Access Channel assignments and Interconnections; Upgrade or Rebuild; Franchise Fee modification; Franchise modification due to changes in the law; ascertainment; reopener.

(C) Either party may initiate arbitration by sending written notice to the other.

(D) In the event an arbitration is initiated by either party, each party has fifteen (15) days from the date of receipt of written notice, to provide to the other party in writing, a list of

six (6) persons qualified to serve as arbitrators with no affiliation or relationship with either party that would tend to affect the person's ability to act as a neutral arbitrator, and acceptable to that party.

(E) The City and Grantee shall mutually select three arbitrators from the list within five (5) days after the exchange of proposed arbitrators information. If the City and Grantee are unable to agree upon these arbitrators within the time specified herein, then the arbitrators shall be appointed by the Chief Judge of the Federal District Court for the Western District of Washington or, if said judge declines to act, by the Presiding Judge of the King County Superior Court.

(F) After the arbitrators have been selected, they shall take an oath to serve neutrally and impartially. The arbitrators shall then schedule such discovery or other exchange of documents and information as is appropriate to the issue and a date, time and place for hearing the presentations of the City and the Grantee. The hearing shall occur not less than one hundred (100) days after the appointment of the arbitrators except for good cause shown. The arbitrators shall make a written report to the City and the Grantee on their final determination within thirty (30) days after completion of the hearing. The determination of the arbitrators shall constitute a final arbitration determination.

(G) The arbitration shall be conducted in Seattle, Washington, in accordance with the then-existing rules of the American Arbitration Association ("AAA"), except where inconsistent with this Franchise, but not under the auspices or control of the AAA unless the parties so agree. Judgment upon any award by the arbitrators may be entered by the state or federal court having jurisdiction.

(H) The cost of the arbitration shall be divided equally between the City and the Grantee. Each party shall be responsible for its own costs.

21.3 Severability.

If any section, provision or clause of this Franchise is held by a court of competent jurisdiction to be invalid or unenforceable, or is preempted by federal or state laws or regulations, the remainder of this Franchise shall not be affected, except as is otherwise provided in this Franchise.

21.4 No Recourse Against City.

Grantee's recourse against the City or its officials, boards, commissions, agents or employees for any claim arising from any provision or requirement of this Franchise shall be limited to injunctive relief and declaratory relief, except where the Grantee's claim arises from acts or omissions of the City acting in a proprietary capacity, but only to the extent such relief is not prohibited by federal law. For purposes of this section, the City shall not be considered to be acting in a proprietary capacity in granting, modifying, denying, terminating, or enforcing franchises.

21.5 Action by Agencies or Courts.

Grantee shall promptly notify the City in the event that any agency of the federal government or the State of Washington or any court with competent jurisdiction requires the Grantee to act inconsistently with any provisions of this Franchise.

21.6 Other Cable Franchises.

The City shall not be limited or prevented by any provision in this Franchise from issuing any franchise, permit, license or other agreement of any kind for all of Grantee's Franchise Area or any portion thereof, to other cable providers. This provision shall not alter any rights of Grantee under Subsection 1.4.

21.7 Choice of Forum.

Any litigation between the City and Grantee arising under or regarding this Franchise shall occur, if in the state courts, in the King County Superior Court, and if in the federal courts, in the United States District Court for the Western District of Washington.

21.8 Force Majeure.

Grantee shall have no liability to City for penalties or damages, nor shall City have the right to terminate this Franchise as a result of any failure or delay of Grantee to perform its obligations hereunder if such failure or delay is caused by factors beyond the control of Grantee, including without limitation, war, civil disturbance, flood or other Act of God, laws, regulations, rules or orders of any governmental agency, sabotage, or strikes. In the event that delay in performance or failure to perform affects only part of Grantee's capacity to perform, then Grantee shall perform to the extent it is reasonably able to do so. In correcting any causes of non-performance or delay, and in effecting any partial performance, Grantee shall take all necessary corrective actions as expeditiously as possible.

21.9 Notice.

Unless otherwise agreed to by the parties, any notice provided for under this Franchise shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party specifies in writing:

If to the City:

City of Seattle
Department of Information Technology
Office of Cable Communications
700 5th Avenue, Suite 2700
PO Box 94709
Seattle, Washington 98124-4709

If to the Grantee:

Comcast Cable
PO Box 3042
19909 – 120th Ave., NE Suite 200
Bothell, WA 98011
Attention: Government Affairs

Comcast of WA I, Inc.

By: _____ Date _____
Title:

Comcast of WA IV, Inc.

By: _____ Date _____
Title:

City of Seattle

By: _____ Date _____
Title:

**ATTACHMENT A.
CORPORATE GUARANTY**

THIS AGREEMENT is made this _____ day of _____, 20____, between _____ (“Guarantor”), the City of Seattle, Washington (“Franchising Authority”), and _____ (“Company”).

WITNESSETH

WHEREAS, the Franchising Authority has entered into a cable television franchise agreement with the Company, authorized by Ordinance No. _____ (“Franchise Agreement”), pursuant to which the Franchising Authority has granted the Company a Franchise, to own, operate, and maintain a cable television system (“System”); and

WHEREAS, Guarantor is the parent company of the Company and has a substantial interest in the System and the conduct of the Company in complying with the Franchise Agreement and any and all amendments thereof and any agreements related thereto, which Franchise Agreement and amendments are hereby specifically referred to, incorporated herein, and made a part hereof; and

WHEREAS, Subsection 12.4 of the Franchise Agreement requires the Company, as principal, to furnish a security fund/letter of credit in the amount equal to one dollar (\$1.00) per Subscriber to ensure the faithful payment and performance of the Company’s obligations under the Franchise Agreement; and

WHEREAS, the Guarantor desires to provide its unconditional guaranty as part of such security fund.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby unconditionally guarantees the due and punctual payment and performance of all of the debts, liabilities and obligations of Company contained in the Franchise Agreement (“Indebtedness”).

This Agreement, unless terminated, substituted, or canceled, as provided herein, shall remain in full force and effect for the duration of the term of the Franchise Agreement, except as expressly provided otherwise in the Franchise Agreement.

Upon substitution of another Guarantor reasonably satisfactory to the Franchising Authority, this Agreement may be terminated, substituted, or canceled upon thirty (30) days prior written notice from Guarantor to the Franchising Authority and the Company.

Such termination shall not affect liability incurred or accrued under this Agreement prior to the effective date of such termination or cancellation.

The Guarantor will not exercise or enforce any right of contribution, reimbursement, recourse or subrogation available to the Guarantor against the Company or any other Person

liable for payment of the Indebtedness or as to any collateral security therefor, unless and until all of the Indebtedness shall have been fully paid and discharged.

The Guarantor will pay or reimburse the Franchising Authority for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by the Franchising Authority in connection with the protection, defense or enforcement of this guaranty in any arbitration, litigation or bankruptcy or insolvency proceedings.

Whether or not any existing relationship between the Guarantor and the Company has been changed or ended and whether or not this guarantee has been revoked, the Franchising Authority may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Guarantor and without any notice to the Guarantor. The liability of the Guarantor shall not be affected or impaired by any of the following acts or things (which the Franchising Authority is expressly authorized to do, omit or suffer from time to time, without notice to or approval by the Guarantor): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver or indulgence granted to the Company, any delay or lack of diligence in the enforcement of any Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, the Company or any other guarantor or other Person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any modification, substitution, discharge, impairment, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Franchising Authority under § 1111(b)(2) of the United States Bankruptcy Code.

The Guarantor waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. The Franchising Authority shall not be required first to resort for payment of the Indebtedness to the Company or other Persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty. The Guarantor will not assert, plead or enforce against the Franchising Authority any defense of discharge in bankruptcy of the Company, statute of frauds, or unenforceability of the guaranty which may be available to the Company or any other Person liable in respect of any Indebtedness, or any setoff available against the Franchising Authority to the Company or any such other Person, whether or not on account of a related transaction.

Any notices given pursuant to this Agreement shall be addressed to the Guarantor and Company at _____, and to the Franchising Authority, Mayor and Members of the City Council, City of Seattle at _____.

IN WITNESS WHEREOF, the Company, Franchising Authority, and Guarantor have executed this Corporate Guaranty as of the day, month and year first above written.

GUARANTOR:

By:
Its:

COMPANY:

By:
Its:

FRANCHISING AUTHORITY:

CITY OF SEATTLE, WASHINGTON

By:
Its: